

HOUSE BILL NO. 891

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Lopez)

A BILL to amend and reenact §§ 2.2-1604, 2.2-4310, 2.2-4311.1, 4.1-203.1, 6.2-2107.1, 13.1-753, 13.1-769, 13.1-915, 13.1-931, 13.1-1050.3, 13.1-1056.2, 13.1-1238.2, 13.1-1246.2, 18.2-308.09, 18.2-308.2:3, 19.2-81.6, 19.2-294.2, 22.1-287, 23.1-503, 32.1-343, 38.2-6500, 40.1-11.1, 46.2-328.1, 46.2-341.12, as it is currently effective and as it may become effective, 47.1-2, 50-73.52:6, 50-73.58:2, 53.1-218, 53.1-219, 53.1-220.1, 53.1-220.2, 55.1-100, 58.1-904, 60.2-214, 60.2-617, 64.2-203, 65.2-101, and 66-3.2 of the Code of Virginia, relating to persons who are not citizens or nationals of the United States; terminology.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1604, 2.2-4310, 2.2-4311.1, 4.1-203.1, 6.2-2107.1, 13.1-753, 13.1-769, 13.1-915, 13.1-931, 13.1-1050.3, 13.1-1056.2, 13.1-1238.2, 13.1-1246.2, 18.2-308.09, 18.2-308.2:3, 19.2-81.6, 19.2-294.2, 22.1-287, 23.1-503, 32.1-343, 38.2-6500, 40.1-11.1, 46.2-328.1, 46.2-341.12, as it is currently effective and as it may become effective, 47.1-2, 50-73.52:6, 50-73.58:2, 53.1-218, 53.1-219, 53.1-220.1, 53.1-220.2, 55.1-100, 58.1-904, 60.2-214, 60.2-617, 64.2-203, 65.2-101, and 66-3.2 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1604. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Certification" means the process by which (i) a business is determined to be a small, women-owned, or minority-owned business or (ii) an employment services organization, for the purpose of reporting small, women-owned, and minority-owned business and employment services organization participation in state contracts and purchases pursuant to §§ 2.2-1608 and 2.2-1610.

26 "Department" means the Department of Small Business and Supplier Diversity or any division of
27 the Department to which the Director has delegated or assigned duties and responsibilities.

28 "Employment services organization" means an organization that provides community-based
29 employment services to individuals with disabilities that is an approved Commission on Accreditation of
30 Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative
31 Services.

32 "Historically black colleges and university" includes any college or university that was established
33 prior to 1964; whose principal mission was, and is, the education of black Americans; and that is
34 accredited by a nationally recognized accrediting agency or association determined by the Secretary of
35 Education.

36 "Minority individual" means an individual who is a United States citizen ~~of the United States~~ or a
37 ~~legal resident alien~~ lawfully admitted permanent resident and who satisfies one or more of the following
38 definitions:

39 1. "African American" means a person having origins in any of the original peoples of Africa and
40 who is regarded as such by the community of which this person claims to be a part.

41 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
42 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
43 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of
44 the Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of
45 which this person claims to be a part.

46 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
47 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and
48 who is regarded as such by the community of which this person claims to be a part.

49 4. "Native American" means a person having origins in any of the original peoples of North
50 America and who is regarded as such by the community of which this person claims to be a part or who
51 is recognized by a tribal organization.

52 "Minority-owned business" means a business that is at least 51 percent owned by one or more
53 minority individuals who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted
54 permanent residents, or in the case of a corporation, partnership, or limited liability company or other
55 entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited
56 liability company or other entity is owned by one or more minority individuals who are ~~U.S.~~ United States
57 citizens or ~~legal resident aliens~~ lawfully admitted permanent residents, and both the management and daily
58 business operations are controlled by one or more minority individuals, or any historically black college
59 or university, regardless of the percentage ownership by minority individuals or, in the case of a
60 corporation, partnership, or limited liability company or other entity, the equity ownership interest in the
61 corporation, partnership, or limited liability company or other entity.

62 "Small business" means a business that is at least 51 percent independently owned and controlled
63 by one or more individuals who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted
64 permanent residents and, together with affiliates, has 250 or fewer employees or average annual gross
65 receipts of \$10 million or less averaged over the previous three years. One or more of the individual
66 owners shall control both the management and daily business operations of the small business.

67 "State agency" means any authority, board, department, instrumentality, institution, agency, or
68 other unit of state government. "State agency" does not include any county, city, or town.

69 "Women-owned business" means a business that is at least 51 percent owned by one or more
70 women who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted permanent residents,
71 or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent
72 of the equity ownership interest is owned by one or more women who are ~~U.S.~~ United States citizens or
73 ~~legal resident aliens~~ lawfully admitted permanent residents, and both the management and daily business
74 operations are controlled by one or more women.

75 **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-**
76 **owned, and service disabled veteran-owned businesses and employment services organizations.**

77 A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder
78 or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age,

79 disability, status as a service disabled veteran, or any other basis prohibited by state law relating to
80 discrimination in employment. Whenever solicitations are made, each public body shall include
81 businesses selected from a list made available by the Department of Small Business and Supplier
82 Diversity, which list shall include all companies and organizations certified by the Department.

83 B. All public bodies shall establish programs consistent with this chapter to facilitate the
84 participation of small businesses, businesses owned by women, minorities, and service disabled veterans,
85 and employment services organizations in procurement transactions. The programs established shall be in
86 writing and shall comply with the provisions of any enhancement or remedial measures authorized by the
87 Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body
88 pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State
89 agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business
90 procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services
91 organization procurement to the Department of Small Business and Supplier Diversity in a form specified
92 by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to
93 employment services organizations and service disabled veteran-owned businesses shall be credited
94 toward the small business, women-owned, and minority-owned business contracting and subcontracting
95 goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall
96 make information on service disabled veteran-owned procurement available to the Department of
97 Veterans Services upon request.

98 C. Whenever there exists (i) a rational basis for small business or employment services
99 organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity
100 between the availability and utilization of women-owned and minority-owned businesses, the Governor
101 is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial
102 measures consistent with prevailing law. Any enhancement or remedial measure authorized by the
103 Governor pursuant to this subsection for state public bodies may allow for small businesses certified by
104 the Department of Small Business and Supplier Diversity or a subcategory of small businesses established
105 as a part of the enhancement program to have a price preference over noncertified businesses competing

106 for the same contract award on designated procurements, provided that the bid of the certified small
107 business or the business in such subcategory of small businesses established as a part of an enhancement
108 program does not exceed the low bid by more than five percent.

109 D. In awarding a contract for services to a small, women-owned, or minority-owned business that
110 is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled
111 veteran-owned business where the award is being made pursuant to an enhancement or remedial program
112 as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the
113 following:

114 "If the contractor intends to subcontract work as part of its performance under this contract, the
115 contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned,
116 and service disabled veteran-owned businesses."

117 E. In the solicitation or awarding of contracts, no state agency, department, or institution shall
118 discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state
119 agency, department, or institution has made a written determination that employing ex-offenders on the
120 specific contract is not in its best interest.

121 F. As used in this section:

122 "Employment services organization" means an organization that provides community-based
123 employment services to individuals with disabilities that is an approved Commission on Accreditation of
124 Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative
125 Services.

126 "Minority individual" means an individual who is a United States citizen ~~of the United States~~ or a
127 ~~legal resident alien~~ lawfully admitted permanent resident and who satisfies one or more of the following
128 definitions:

129 1. "African American" means a person having origins in any of the original peoples of Africa and
130 who is regarded as such by the community of which this person claims to be a part.

131 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
132 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,

133 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of
134 the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of
135 which this person claims to be a part.

136 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
137 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and
138 who is regarded as such by the community of which this person claims to be a part.

139 4. "Native American" means a person having origins in any of the original peoples of North
140 America and who is regarded as such by the community of which this person claims to be a part or who
141 is recognized by a tribal organization.

142 "Minority-owned business" means a business that is at least 51 percent owned by one or more
143 minority individuals who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted
144 permanent residents, or in the case of a corporation, partnership, or limited liability company or other
145 entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited
146 liability company or other entity is owned by one or more minority individuals who are ~~U.S.~~ United States
147 citizens or ~~legal resident aliens~~ lawfully admitted permanent residents, and both the management and daily
148 business operations are controlled by one or more minority individuals, or any historically black college
149 or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or,
150 in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership
151 interest in the corporation, partnership, or limited liability company or other entity.

152 "Service disabled veteran" means a veteran who (i) served on active duty in the United States
153 military ground, naval, or air service, (ii) was discharged or released under conditions other than
154 dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of
155 Veterans Affairs.

156 "Service disabled veteran business" means a business that is at least 51 percent owned by one or
157 more service disabled veterans or, in the case of a corporation, partnership, or limited liability company
158 or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or
159 limited liability company or other entity is owned by one or more individuals who are service disabled

160 veterans and both the management and daily business operations are controlled by one or more individuals
161 who are service disabled veterans.

162 "Small business" means a business, independently owned and controlled by one or more
163 individuals who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted permanent
164 residents, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million
165 or less averaged over the previous three years. One or more of the individual owners shall control both
166 the management and daily business operations of the small business.

167 "State agency" means any authority, board, department, instrumentality, institution, agency, or
168 other unit of state government. "State agency" shall not include any county, city, or town.

169 "Women-owned business" means a business that is at least 51 percent owned by one or more
170 women who are ~~U.S.~~ United States citizens or ~~legal resident aliens~~ lawfully admitted permanent residents,
171 or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent
172 of the equity ownership interest is owned by one or more women who are ~~U.S.~~ United States citizens or
173 ~~legal resident aliens~~ lawfully admitted permanent residents, and both the management and daily business
174 operations are controlled by one or more women.

175 **§ 2.2-4311.1. Compliance with federal, state, and local laws and federal immigration law;**
176 **required contract provisions.**

177 All public bodies shall provide in every written contract that the contractor does not, and shall not
178 during the performance of the contract for goods and services in the Commonwealth, knowingly employ
179 ~~an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986~~ any person
180 who is not lawfully present in the United States or is not authorized for employment as described in 8
181 U.S.C. § 1324a(h)(3).

182 **§ 4.1-203.1. Managers of licensed retail establishments.**

183 The Board may suspend or revoke any license if it finds that the licensee has been convicted for a
184 violation of 8 U.S.C. § ~~1324a (f)~~ 1324a(f), as amended, for actions of its managers or otherwise
185 constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful employment on the licensed
186 premises in the Commonwealth as described in that section.

187 § 6.2-2107.1. Recordkeeping requirements.

188 A. As used in this section, a customer's "identification document" means any of the following:

- 189 1. A state-issued driver's license or identification card;
- 190 2. A U.S. government permanent resident ~~alien~~ identification card;
- 191 3. A passport;
- 192 4. A U.S. military identification card;
- 193 5. A Non-U.S. government identification card;
- 194 6. A Mexican Matricula identification card; or
- 195 7. Other government identification card.

196 B. A registrant shall not cash an item for a customer in the course of conducting its business unless
197 the registrant:

198 1. Makes a copy of both sides of the item or maintains a record of the following information that
199 is available from the item:

- 200 a. ABA number;
- 201 b. Account number;
- 202 c. Check number;
- 203 d. Check type;
- 204 e. Date of check; and
- 205 f. Check amount; and

206 2. Makes a copy of an identification document that is presented by the customer to the registrant
207 at the time the customer presents the item for cashing or maintains a record of the following information
208 that is available from the identification:

- 209 a. Name;
- 210 b. Address;
- 211 c. Date of birth;
- 212 d. Type of identification;
- 213 e. Identification number; and

214 f. Identification expiration date.

215 C. A registrant shall maintain the information required by subsection B and a record of the time
216 and date of the transaction. Such materials shall be maintained for a period of not less than six months
217 following the date an item is cashed.

218 D. The provisions of this section shall not apply to any registrant that is principally engaged in the
219 bona fide retail sale of goods or services.

220 **§ 13.1-753. Involuntary termination of corporate existence.**

221 A. The corporate existence of a corporation may be terminated involuntarily by order of the
222 Commission when it finds that the corporation (i) has continued to exceed or abuse the authority conferred
223 upon it by law; (ii) has failed to maintain a registered office or a registered agent in this Commonwealth
224 as required by law; (iii) has failed to file any document required by this chapter to be filed with the
225 Commission; or (iv) has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of
226 its officers and directors constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful
227 employment in the Commonwealth as described in that section. Upon termination, the properties and
228 affairs of the corporation shall pass automatically to its directors as trustees in liquidation. The trustees
229 then shall proceed to collect the assets of the corporation; sell, convey and dispose of such of its properties
230 as are not to be distributed in kind to its shareholders; pay, satisfy and discharge its liabilities and
231 obligations; and do all other acts required to liquidate its business and affairs. After paying or adequately
232 providing for the payment of all its obligations, the trustees shall distribute the remainder of its assets,
233 either in cash or in kind, among its shareholders according to their respective rights and interests. A
234 corporation whose existence is terminated pursuant to clause (iv) shall not be eligible for reinstatement
235 for a period of not less than one year.

236 B. Any corporation convicted of the offense listed in clause (iv) of subsection A shall immediately
237 report such conviction to the Commission and file with the Commission an authenticated copy of the
238 judgment or record of conviction.

239 C. Before entering any such order the Commission shall issue a rule against the corporation giving
240 it an opportunity to be heard and show cause why such an order should not be entered. The Commission
241 may issue the rule on its own motion or on motion of the Attorney General.

242 **§ 13.1-769. Involuntary revocation of certificate of authority.**

243 A. The certificate of authority to transact business in the Commonwealth of any foreign
244 corporation may be revoked by order of the Commission when it finds that such foreign corporation:

- 245 1. Has continued to exceed the authority conferred upon it by law;
- 246 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
247 by law;
- 248 3. Has failed to file any document required by this chapter to be filed with the Commission;
- 249 4. No longer exists under the laws of the jurisdiction of its formation; or
- 250 5. Has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers
251 and directors constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful employment in
252 the Commonwealth as described in that section.

253 A certificate of authority revoked pursuant to subdivision A 5 shall not be eligible for reinstatement
254 for a period of not less than one year.

255 B. A foreign corporation convicted of the offense listed in subdivision A 5 shall immediately report
256 such conviction to the Commission and file with the Commission an authenticated copy of the judgment
257 or record of conviction.

258 C. Before entering an order revoking the certificate of authority of a foreign corporation under
259 subsection A, the Commission shall issue a rule against the foreign corporation giving it an opportunity
260 to be heard and show cause why such an order should not be entered. The Commission may issue the rule
261 on its own motion or on motion of the Attorney General.

262 D. The authority of a foreign corporation to transact business in the Commonwealth ceases on the
263 date shown on the order revoking its certificate of authority.

264 E. The Commission's revocation of a foreign corporation's certificate of authority appoints the
265 clerk of the Commission as an agent of the foreign corporation for service of process in any proceeding

266 based on a cause of action arising during the time the foreign corporation was authorized to transact
267 business in the Commonwealth. Service of process on the clerk of the Commission under this subsection
268 is service on the foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

269 F. Revocation of a foreign corporation's certificate of authority does not terminate the authority of
270 the registered agent of the corporation.

271 **§ 13.1-915. Involuntary termination of corporate existence.**

272 A. The corporate existence of a corporation may be terminated involuntarily by order of the
273 Commission when it finds that the corporation (i) has continued to exceed or abuse the authority conferred
274 upon it by law; (ii) has failed to maintain a registered office or a registered agent in the Commonwealth
275 as required by law; (iii) has failed to file any document required by this Act to be filed with the
276 Commission; or (iv) has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of
277 its officers and directors constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful
278 employment in the Commonwealth as described in that section. Upon termination, the properties and
279 affairs of the corporation shall pass automatically to its directors as trustees in liquidation. The trustees
280 then shall proceed to collect the assets of the corporation, and pay, satisfy and discharge its liabilities and
281 obligations and do all other acts required to liquidate its business and affairs. After paying or adequately
282 providing for the payment of all its obligations, the trustees shall distribute the remainder of its assets in
283 accordance with § 13.1-907. A corporation whose existence is terminated pursuant to clause (iv) shall not
284 be eligible for reinstatement for a period of not less than one year.

285 B. Any corporation convicted of the offense listed in clause (iv) of subsection A shall immediately
286 report such conviction to the Commission and file with the Commission an authenticated copy of the
287 judgment or record of conviction.

288 C. Before entering any such order the Commission shall issue a rule against the corporation giving
289 it an opportunity to be heard and show cause why such an order should not be entered. The Commission
290 may issue the rule on its own motion or on motion of the Attorney General.

291 **§ 13.1-931. Involuntary revocation of certificate of authority.**

292 A. The certificate of authority to transact business in the Commonwealth of any foreign
293 corporation may be revoked by order of the Commission when it finds that the corporation:

- 294 1. Has continued to exceed the authority conferred upon it by law;
- 295 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
296 by law;
- 297 3. Has failed to file any document required by this Act to be filed with the Commission;
- 298 4. No longer exists under the laws of the state or country of its incorporation; or
- 299 5. Has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers
300 and directors constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful employment in
301 the Commonwealth as described in that section.

302 A certificate revoked pursuant to subdivision A 5 shall not be eligible for reinstatement for a period
303 of not less than one year.

304 B. Any foreign corporation convicted of the offense listed in subdivision A 5 shall immediately
305 report such conviction to the Commission and file with the Commission an authenticated copy of the
306 judgment or record of conviction.

307 C. Before entering any such order the Commission shall issue a rule against the corporation giving
308 it an opportunity to be heard and show cause why such an order should not be entered. The Commission
309 may issue the rule on its own motion or on motion of the Attorney General.

310 D. The authority of a foreign corporation to transact business in the Commonwealth ceases on the
311 date shown on the order revoking its certificate of authority.

312 E. The Commission's revocation of a foreign corporation's certificate of authority appoints the
313 clerk of the Commission the foreign corporation's agent for service of process in any proceeding based on
314 a cause of action arising during the time the foreign corporation was authorized to transact business in the
315 Commonwealth. Service of process on the clerk of the Commission under this subsection is service on the
316 foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

317 F. Revocation of a foreign corporation's certificate of authority does not terminate the authority of
318 the registered agent of the corporation.

319 **§ 13.1-1050.3. Involuntary cancellation of limited liability company existence.**

320 A. The existence of a limited liability company may be canceled involuntarily by order of the
321 Commission when it finds that the limited liability company has:

322 1. Continued to exceed or abuse the authority conferred upon it by law;

323 2. Failed to maintain a registered office or a registered agent in the Commonwealth as required by
324 law;

325 3. Failed to file any document required by this chapter to be filed with the Commission; or

326 4. Been convicted for a violation of 8 U.S.C. § ~~1324a~~ (f) 1324a(f), as amended, for actions of its
327 members or managers constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful
328 employment in the Commonwealth as described in that section.

329 B. Before entering any such order, the Commission shall issue a rule against the limited liability
330 company giving it an opportunity to be heard and show cause why such an order should not be entered.
331 The Commission may issue the rule on its own motion or on motion of the Attorney General.

332 C. The properties and affairs of a limited liability company whose existence has been canceled
333 pursuant to this section shall pass automatically to its managers, or if the limited liability company is
334 managed by its members, then to its members, or if the limited liability company has no managers or
335 members, then to the holders of its interests, in each such case as trustees in liquidation. The trustees shall
336 then proceed to (i) collect the assets of the limited liability company; (ii) sell, convey, and dispose of such
337 of its properties as are not to be distributed in kind to its members; (iii) pay, satisfy, and discharge its
338 liabilities and obligations; and (iv) do all other acts required to liquidate its business and affairs. After
339 paying or adequately providing for the payment of all its obligations, the trustees shall distribute the
340 remainder of its assets, either in cash or in kind, among its members or interest holders according to their
341 respective rights and interests.

342 D. Any limited liability company convicted of the offense listed in subdivision A 4 shall
343 immediately report such conviction to the Commission and file with the Commission an authenticated
344 copy of the judgment or record of conviction. A limited liability company whose existence is canceled
345 pursuant to subdivision A 4 shall not be eligible for reinstatement for a period of not less than one year.

346 **§ 13.1-1056.2. Involuntary cancellation of certificate of registration.**

347 A. The certificate of registration to transact business in the Commonwealth of any foreign limited
348 liability company may be canceled involuntarily by order of the Commission when it finds that the foreign
349 limited liability company:

350 1. Has continued to exceed or abuse the authority conferred upon it by law;

351 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
352 by law;

353 3. Has failed to file any document required by this chapter to be filed with the Commission;

354 4. No longer exists under the laws of the state or other jurisdiction of its organization; or

355 5. Has been convicted for a violation of 8 U.S.C. § ~~1324a (f)~~ 1324a(f), as amended, for actions of
356 its members or managers constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful
357 employment in the Commonwealth as described in that section.

358 B. Before entering any such order the Commission shall issue a rule against the foreign limited
359 liability company giving it an opportunity to be heard and show cause why such an order should not be
360 entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

361 C. The authority of a foreign limited liability company to transact business in the Commonwealth
362 ceases on the date shown on the order canceling its certificate of registration.

363 D. The Commission's cancellation of a foreign limited liability company's certificate of registration
364 appoints the clerk of the Commission the foreign limited liability company's agent for service of process
365 in any proceeding based on a cause of action arising during the time the foreign limited liability company
366 was registered to transact business in the Commonwealth. Service of process on the clerk of the
367 Commission under this subsection is service on the foreign limited liability company and shall be made
368 on the clerk in accordance with § 12.1-19.1.

369 E. Cancellation of a foreign limited liability company's certificate of registration does not terminate
370 the authority of the registered agent of the foreign limited liability company.

371 F. Any foreign limited liability company convicted of the offense listed in subdivision A 5 shall
372 immediately report such conviction to the Commission and file with the Commission an authenticated

373 copy of the judgment or record of conviction. A certificate of registration canceled pursuant to subdivision
374 A 5 shall not be eligible for reinstatement for a period of not less than one year.

375 **§ 13.1-1238.2. Involuntary cancellation of business trust existence.**

376 A. The existence of a business trust may be canceled involuntarily by order of the Commission
377 when it finds that the business trust has:

- 378 1. Continued to exceed or abuse the authority conferred upon it by law;
- 379 2. Failed to maintain a registered office or a registered agent in the Commonwealth as required by
380 law;
- 381 3. Failed to file any document required by this chapter to be filed with the Commission; or
- 382 4. Been convicted for a violation of 8 U.S.C. § ~~1324a~~ (f) 1324a(f), as amended, for actions of its
383 trustees or beneficial owners authorized to act on the behalf of a business trust constituting a pattern or
384 practice of ~~employing unauthorized aliens~~ unlawful employment in the Commonwealth as described in
385 that section.

386 B. Before entering any such order, the Commission shall issue a rule against the business trust
387 giving it an opportunity to be heard and show cause why such an order should not be entered. The
388 Commission may issue the rule on its own motion or on motion of the Attorney General.

389 C. The properties and affairs of a business trust whose existence has been canceled pursuant to this
390 section shall pass automatically to its trustees as trustees in liquidation. The trustees shall then proceed to
391 (i) collect the assets of the business trust; (ii) sell, convey, and dispose of such of its properties as are not
392 to be distributed in kind to its beneficial owners; (iii) pay, satisfy, and discharge its liabilities and
393 obligations; and (iv) do all other acts required to liquidate its business and affairs. After paying or
394 adequately providing for the payment of all its obligations, the liquidating trustees shall distribute the
395 remainder of its assets, either in cash or in kind, among its beneficial owners according to their respective
396 rights and interests.

397 D. Any business trust convicted of the offense listed in subdivision A 4 shall immediately report
398 such conviction to the Commission and file with the Commission an authenticated copy of the judgment

399 or record of conviction. A business trust whose existence is canceled pursuant to subdivision A 4 shall not
400 be eligible for reinstatement for a period of not less than one year.

401 **§ 13.1-1246.2. Involuntary cancellation of registration.**

402 A. The certificate of registration to transact business in the Commonwealth of any foreign business
403 trust may be canceled involuntarily by order of the Commission when it finds that the foreign business
404 trust:

- 405 1. Has continued to exceed or abuse the authority conferred upon it by law;
- 406 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
407 by law;
- 408 3. Has failed to file any document required by this chapter to be filed with the Commission;
- 409 4. No longer exists under the laws of the state or other jurisdiction of its formation; or
- 410 5. Has been convicted for a violation of 8 U.S.C. § ~~1324a (f)~~ 1324a(f), as amended, for actions of
411 its trustees or beneficial owners authorized to act on the behalf of a foreign business trust constituting a
412 pattern or practice of ~~employing unauthorized aliens~~ unlawful employment in the Commonwealth as
413 described in that section.

414 B. Before entering any such order, the Commission shall issue a rule against the foreign business
415 trust giving it an opportunity to be heard and show cause why such an order should not be entered. The
416 Commission may issue the rule on its own motion or on motion of the Attorney General.

417 C. The authority of a foreign business trust to transact business in the Commonwealth ceases on
418 the date shown on the order canceling its certificate of registration.

419 D. The Commission's cancellation of a foreign business trust's certificate of registration appoints
420 the clerk of the Commission the foreign business trust's agent for service of process in any proceeding
421 based on a cause of action arising during the time the foreign business trust was authorized to transact
422 business in the Commonwealth. Service of process on the clerk of the Commission under this subsection
423 is service on the foreign business trust and shall be made on the clerk in accordance with § 12.1-19.1.

424 E. Cancellation of a foreign business trust's certificate of registration does not terminate the
425 authority of the registered agent of the foreign business trust.

426 F. Any foreign business trust convicted of the offense listed in subdivision A 5 shall immediately
427 report such conviction to the Commission and file with the Commission an authenticated copy of the
428 judgment or record of conviction. A certificate of registration canceled pursuant to subdivision A 5 shall
429 not be eligible for reinstatement for a period of not less than one year.

430 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

431 The following persons shall be deemed disqualified from obtaining a permit:

432 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2,
433 18.2-308.1:3, 18.2-308.1:6, 18.2-308.1:7, or 18.2-308.1:8 or the substantially similar law of any other
434 state or of the United States.

435 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was
436 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the
437 date of his application for a concealed handgun permit.

438 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose
439 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his
440 application for a concealed handgun permit.

441 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was
442 released from commitment less than five years before the date of this application for a concealed handgun
443 permit.

444 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
445 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

446 6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm,
447 except that a restoration order may be obtained in accordance with subsection C of that section.

448 7. An individual who has been convicted of two or more misdemeanors within the five-year period
449 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
450 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic
451 infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
452 disqualification.

453 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
454 cannabinoids, or any controlled substance.

455 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar
456 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
457 state, the District of Columbia, the United States, or its territories within the three-year period immediately
458 preceding the application.

459 10. ~~An alien other than an alien~~ individual who is not a citizen or national of the United States and
460 is not otherwise lawfully admitted for permanent residence in the United States.

461 11. An individual who has been discharged from the armed forces of the United States under
462 dishonorable conditions.

463 12. An individual who is a fugitive from justice.

464 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts
465 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
466 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating
467 that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a
468 disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a
469 weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the
470 attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy
471 sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written
472 statement made under oath before a notary public of a competent person having personal knowledge of
473 the specific acts.

474 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
475 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
476 of § 18.2-282 within the three-year period immediately preceding the application.

477 15. An individual who has been convicted of stalking.

478 16. An individual whose previous convictions or adjudications of delinquency were based on an
479 offense that would have been at the time of conviction a felony if committed by an adult under the laws

480 of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier,
481 only convictions occurring within 16 years following the later of the date of (i) the conviction or
482 adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be
483 deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an
484 individual with previous adjudications of delinquency who has completed a term of service of no less than
485 two years in the Armed Forces of the United States and, if such person has been discharged from the
486 Armed Forces of the United States, received an honorable discharge.

487 17. An individual who has a felony charge pending or a charge pending for an offense listed in
488 subdivision 14 or 15.

489 18. An individual who has received mental health treatment or substance abuse treatment in a
490 residential setting within five years prior to the date of his application for a concealed handgun permit.

491 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
492 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
493 in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or
494 of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any
495 controlled substance, under the laws of any state, the District of Columbia, or the United States or its
496 territories.

497 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within
498 the three-year period immediately preceding the application, upon a charge of any criminal offense set
499 forth in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1
500 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any
501 controlled substance under the laws of any state, the District of Columbia, or the United States or its
502 territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed
503 of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of
504 Columbia, or the United States or its territories.

505 **§ 18.2-308.2:3. Criminal background check required for employees of a gun dealer to**
506 **transfer firearms; exemptions; penalties.**

507 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
508 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
509 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
510 from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-
511 308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is ~~an illegal alien~~
512 illegally present in the United States, or is prohibited from purchasing or transporting a firearm pursuant
513 to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

514 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement
515 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the
516 applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to
517 be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal
518 history record information regarding the applicant.

519 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons
520 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from
521 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the
522 dealer shall submit the employee's fingerprints and personal descriptive information to the Central
523 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose
524 of obtaining national criminal history record information regarding the request.

525 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
526 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
527 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
528 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
529 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
530 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
531 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,
532 state the name of each person requesting the exemption, together with each person's identifying
533 information, including their social security number and the following statement: "I hereby swear, under

534 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
535 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
536 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
537 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
538 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in
539 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
540 of my federal firearms license."

541 D. The Department of State Police, upon receipt of an individual's record or notification that no
542 record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant
543 beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed
544 prior to July 1, 2000.

545 E. If any applicant is denied employment because of information appearing on the criminal history
546 record and the applicant disputes the information upon which the denial was based, the Central Criminal
547 Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy
548 of the criminal history record from the Federal Bureau of Investigation. The information provided to the
549 dealer shall not be disseminated except as provided in this section.

550 F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at
551 his option, decides to pay such cost.

552 G. Upon receipt of the request for a criminal history record information check, the State Police
553 shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's
554 signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction
555 forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered.
556 The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller
557 for a potentially disqualifying crime.

558 H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or
559 at any event required to be registered as a gun show.

560 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history
561 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
562 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,
563 shall be guilty of a Class 2 misdemeanor.

564 J. Any person willfully and intentionally making a materially false statement on the personal
565 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers
566 for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer
567 who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this
568 section shall be guilty of a Class 1 misdemeanor.

569 K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee
570 of a firearm lawfully transferred pursuant to this section.

571 L. The provisions of this section requiring a seller's background check shall not apply to a licensed
572 dealer.

573 M. Any person who willfully and intentionally makes a false statement in the affidavit as set out
574 in subdivision C 1 shall be guilty of a Class 5 felony.

575 N. For purposes of this section:

576 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18
577 U.S.C. § 921 et seq.

578 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
579 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

580 "Place of business" means any place or premises where a dealer may lawfully transfer firearms.

581 "Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an
582 agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background
583 check in accordance with the provisions of § 18.2-308.2:2.

584 "Transfer" means any act performed with intent to sell, rent, barter, or trade or otherwise transfer
585 ownership or permanent possession of a firearm at the place of business of a dealer.

586 **§ 19.2-81.6. Authority of law-enforcement officers to arrest individuals illegally present in**
587 **the United States.**

588 All law-enforcement officers enumerated in § 19.2-81 shall have the authority to enforce
589 immigration laws of the United States, pursuant to the provisions of this section. Any law-enforcement
590 officer enumerated in § 19.2-81 may, in the course of acting upon reasonable suspicion that an individual
591 has committed or is committing a crime, arrest the individual without a warrant upon receiving
592 confirmation from the Bureau of Immigration and Customs Enforcement of the United States Department
593 of Homeland Security that the individual (i) is ~~an alien~~ illegally present in the United States; and (ii) has
594 previously been convicted of a felony in the United States and deported or left the United States after such
595 conviction. Upon receiving such confirmation, the officer shall take the individual forthwith before a
596 magistrate or other issuing authority and proceed pursuant to § 19.2-82.

597 **§ 19.2-294.2. Procedure when noncitizens convicted of certain felonies; duties of probation**
598 **and parole officer.**

599 A. Whenever a person is (i) convicted in a circuit court of any felony and (ii) referred to a probation
600 or parole officer for a report pursuant to § 19.2-299, or for probation supervision, the probation or parole
601 officer shall inquire as to the citizenship of such person. If upon inquiry it is determined that the person
602 may not be an alien a citizen or national of the United States based upon his failure to produce evidence
603 of United States citizenship or status as a United States national, the probation or parole officer shall report
604 this determination to the Central Criminal Records Exchange of the Department of State Police in a format
605 approved by the Exchange.

606 B. The inquiry required by this section need not be made if it is apparent that a report on ~~alien~~
607 citizenship status has previously been made to the Central Criminal Records Exchange pursuant to this
608 section.

609 C. It shall be the responsibility of the Central Criminal Records Exchange of the Department of
610 State Police to review arrest reports submitted by law-enforcement agencies and reports of ~~suspected alien-~~
611 status citizenship status inquiries made by probation or parole officers, and to report within ~~sixty~~ 60 days
612 of final disposition to the Law Enforcement Support Center of the United States Immigration and Customs

613 Enforcement the identity of all convicted offenders ~~suspected of being an alien~~ believed to not be citizens
614 or nationals of the United States.

615 **§ 22.1-287. Limitations on access to records.**

616 A. No teacher, principal or employee of any public school nor any school board member shall
617 permit access to any records concerning any particular pupil enrolled in the school in any class to any
618 person except under judicial process unless the person is one of the following:

619 1. Either parent of such pupil or such pupil; provided that a school board may require that such
620 pupil, if he be less than 18 years of age, as a condition precedent to access to such records, furnish written
621 consent of his or her parent for such access;

622 2. A person designated in writing by such pupil if the pupil is 18 years of age or older or by either
623 parent of such pupil if the pupil is less than 18 years of age;

624 3. The principal, or someone designated by him, of a school where the pupil attends, has attended,
625 or intends to enroll;

626 4. The current teachers of such pupil;

627 5. State or local law-enforcement or correctional personnel, including a law-enforcement officer,
628 probation officer, parole officer or administrator, or a member of a parole board, seeking information in
629 the course of his duties;

630 6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of
631 schools where the pupil attends, has attended, or intends to enroll or a member of his staff;

632 7. An officer or employee of a county or city agency responsible for protective services to children,
633 as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

634 B. A parent or pupil entitled to see the records pursuant to subdivision A 1 shall have access to all
635 records relating to such pupil maintained by the school except as otherwise provided by law and need only
636 appear in person during regular hours of the school day and request to see such records. No material
637 concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent or
638 pupil shall be entitled to read such material personally.

639 C. The giving of information by school personnel concerning participation in athletics and other
640 school activities, the winning of scholastic or other honors and awards, and other like information shall
641 be governed by the provisions of § 22.1-287.1.

642 D. Notwithstanding the restrictions imposed by this section:

643 1. A division superintendent of schools may, in his discretion, provide information to the staff of
644 an institution of higher education or educational research and development organization or laboratory if
645 such information is necessary to a research project or study conducted, sponsored, or approved by the
646 institution of higher education or educational research and development organization or laboratory and if
647 no pupil will be identified by name in the information provided for research;

648 2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic
649 record in the form of grades received in school subjects, the names of a pupil's parents, a pupil's date and
650 place of birth, and the names and addresses of other schools a pupil has attended may be released to an
651 officer or employee of the United States government seeking this information in the course of his duties
652 when the pupil is a veteran of military service with the United States, an orphan or dependent of such
653 veteran, or an ~~alien~~ individual who is not a citizen or national of the United States;

654 3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an
655 employee of a local department of social services who needs the record to determine the eligibility of the
656 pupil's family for public assistance and social services;

657 4. The principal or his designee may disclose identifying information from a pupil's scholastic
658 record for the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil
659 prior to adjudication. In addition to those agencies or personnel identified in subdivisions A 5 and 7, the
660 principal or his designee may disclose identifying information from a pupil's scholastic record to attorneys
661 for the Commonwealth, court services units, juvenile detention centers or group homes, mental and
662 medical health agencies, state and local children and family service agencies, and the Department of
663 Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the
664 persons to whom the records are to be disclosed shall certify in writing to the principal or his designee

665 that the information will not be disclosed to any other party, except as provided under state law, without
666 the prior written consent of the parent of the pupil or by such pupil if the pupil is 18 years of age or older.

667 **§ 23.1-503. Determination of domicile; rules; presumptions.**

668 A. Students shall not ordinarily establish domicile by the performance of acts that are auxiliary to
669 fulfilling educational objectives or are required or routinely performed by temporary residents of the
670 Commonwealth. Students shall not establish domicile by mere physical presence or residence primarily
671 for educational purposes.

672 B. A married individual may establish domicile in the same manner as an unmarried individual.

673 C. A nonmilitary student whose parent or spouse is a member of the Armed Forces of the United
674 States may establish domicile in the same manner as any other student.

675 D. Any ~~alien~~ noncitizen holding an immigration visa or classified as a political refugee may
676 establish domicile in the same manner as any other student. However, absent congressional intent to the
677 contrary, any individual holding a student visa or another temporary visa does not have the capacity to
678 intend to remain in the Commonwealth indefinitely and is therefore ineligible to establish domicile and
679 receive in-state tuition charges.

680 E. The domicile of a dependent student shall be rebuttably presumed to be the domicile of the
681 parent or legal guardian (i) claiming him as an exemption on federal or state income tax returns currently
682 and for the tax year prior to the date of the alleged entitlement or (ii) providing him with substantial
683 financial support. The spouse of an active duty military service member, if such spouse has established
684 domicile and claimed the dependent student on federal or state income tax returns, is not subject to
685 minimum income tests or requirements.

686 F. The domicile of an unemancipated minor or a dependent student 18 years old or older may be
687 the domicile of either the parent with whom he resides, the parent who claims the student as a dependent
688 for federal or Virginia income tax purposes for the tax year prior to the date of the alleged entitlement and
689 is currently so claiming the student, or the parent who provides the student with substantial financial
690 support. If there is no surviving parent or the whereabouts of the parents are unknown, then the domicile
691 of an unemancipated minor shall be the domicile of the legal guardian of such unemancipated minor unless

692 circumstances indicate that such guardianship was created primarily for the purpose of establishing
693 domicile.

694 G. Continuously enrolled non-Virginia students shall be presumed to be in the Commonwealth for
695 educational purposes unless they rebut such presumption with clear and convincing evidence of domicile.

696 H. A non-Virginia student is not eligible for reclassification as a Virginia student unless he applies
697 for and is approved for such reclassification. Any such reclassification shall only be granted prospectively
698 from the date such application is received.

699 I. A student who knowingly provides erroneous information in an attempt to evade payment of
700 out-of-state tuition charges shall be charged out-of-state tuition for each term, semester, or quarter attended
701 and may be subject to dismissal from the institution. All disputes relating to the veracity of information
702 provided to establish domicile in the Commonwealth are appealable as set forth in § 23.1-510.

703 J. No student shall be deemed ineligible to establish domicile and receive in-state tuition charges
704 solely on the basis of the immigration status of his parent.

705 **§ 32.1-343. Definitions.**

706 As used in this chapter unless the context requires a different meaning:

707 "Board" means the Board of Medical Assistance Services.

708 "Director" means the Director of the Department of Medical Assistance Services.

709 "Indigent person" means a person who is a bona fide resident of the county or city, whether
710 gainfully employed or not and who, either by himself or by those upon whom he is dependent, is unable
711 to pay for required hospitalization or treatment. Residence shall not be established for the purpose of
712 obtaining the benefits of this chapter. Migrant workers and ~~aliens~~ persons living in the United States
713 illegally shall not be considered bona fide residents of the county or city for purposes of the State/Local
714 Hospitalization Program.

715 **§ 38.2-6500. Definitions.**

716 As used in this chapter, unless the context requires a different meaning:

717 "American Health Benefit Exchange" means the program established as a component of the
718 Exchange pursuant to this chapter that is designed to facilitate the purchase of qualified health plans or
719 qualified dental plans by qualified individuals.

720 "Bureau" means the Bureau of Insurance, a division within the Commission through which it
721 administers insurance law.

722 "Certified application counselor" means individuals certified by the Exchange to perform the
723 duties described in 45 C.F.R. § 155.255(c).

724 "Commission" means the State Corporation Commission.

725 "Committee" means the Advisory Committee established pursuant to § 38.2-6503.

726 "Director" means the Director of the Division appointed by the Commission pursuant to § 38.2-
727 6502.

728 "Division" means the Health Benefit Exchange Division, a division within the Commission
729 through which it administers the Exchange.

730 "Eligible employee" means an individual employed by a qualified employer who has been offered
731 health insurance coverage by such qualified employer through the SHOP exchange.

732 "Eligible entity" means the Bureau, the Department of Medical Assistance Services, or a qualified
733 vendor that has demonstrated experience on a statewide or regional basis in individual and small group
734 health insurance markets and in benefits coverage; however, a health carrier or an affiliate of a health
735 carrier is not an eligible entity.

736 "Essential health benefits package" means the scope of covered benefits and associated limits of a
737 health benefit plan that (i) provides benefits pursuant to § 38.2-3451; (ii) provides the benefits in the
738 manner described in 45 C.F.R. § 156.115; (iii) limits cost-sharing for such coverage as described in 45
739 C.F.R. § 156.130; and (iv) subject to offering catastrophic plans as described in § 1302(e) of the Federal
740 Act, provides distinct levels of coverage as described in 45 C.F.R. § 156.140.

741 "Exchange" means, as the context requires, either (i) the Division or (ii) the Virginia Health Benefit
742 Exchange established pursuant to the provisions of this chapter and in accordance with § 1311(b) of the
743 Federal Act, through which qualified health plans and qualified dental plans are made available to

744 qualified individuals through the American Health Benefit Exchange and to qualified employers through
745 the SHOP exchange. "Exchange," when referring to the Virginia Health Benefit Exchange, collectively
746 refers to both the American Health Benefit Exchange and the SHOP exchange.

747 "FAMIS" means the Family Access to Medical Insurance Security Plan, including the FAMIS Plus
748 program, established pursuant to Chapter 13 (§ 32.1-351 et seq.) of Title 32.1.

749 "Federal Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as
750 amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, and as it may further
751 be amended, and regulations issued thereunder.

752 "Health benefit plan" or "plan" means a policy, contract, certificate, or agreement offered or issued
753 by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care
754 services. The term does not include coverage only for accident or disability income insurance, or any
755 combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including
756 general liability insurance and automobile liability insurance; workers' compensation or similar insurance;
757 automobile medical payment insurance; credit-only insurance; coverage for onsite medical clinics; or
758 other similar insurance coverage, specified in federal regulations issued pursuant to the Federal Act, under
759 which benefits for medical care are secondary or incidental to other insurance benefits. The term does not
760 include the following benefits if they are provided under a separate policy, certificate, or contract of
761 insurance or are otherwise not an integral part of the plan: limited scope dental or vision benefits; benefits
762 for long-term care, nursing home care, home health care, community-based care, or any combination
763 thereof; or other similar limited benefits specified in federal regulations issued pursuant to the Federal
764 Act. The term does not include the following benefits if the benefits are provided under a separate policy,
765 certificate, or contract of insurance; there is no coordination between the provision of the benefits and any
766 exclusion of benefits under any group health plan maintained by the same plan sponsor; and the benefits
767 are paid with respect to an event without regard to whether benefits are provided with respect to such an
768 event under any group health plan maintained by the same plan sponsor: coverage only for a specified
769 disease or illness, for hospital indemnity, or other fixed indemnity insurance. The term does not include
770 the following if offered as a separate policy, certificate, or contract of insurance: Medicare supplemental

771 health insurance as defined under § 1882(g)(1) of the U.S. Social Security Act; coverage supplemental to
772 the coverage provided under 10 U.S.C. § 1071 et seq. (TRICARE); or similar supplemental coverage
773 provided under a group health plan.

774 "Health carrier" or "carrier" means an entity subject to the insurance laws and regulations of the
775 Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to
776 provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an
777 insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health
778 services plan, a dental plan organization, a dental services plan, or any other entity providing a plan of
779 health insurance, health benefits, or health care services.

780 "Insurance agent" has the same meaning as provided in § 38.2-1800.

781 "Minimum essential coverage" means coverage defined in 45 C.F.R. § 156.600.

782 "Navigator" means an individual or entity that is registered pursuant to § 38.2-3457.

783 "PHSA" means the federal Public Health Service Act, Chapter 6A of Title 42 of the United States
784 Code, as amended.

785 "Qualified dental plan" means a limited scope dental plan that has been certified in accordance
786 with § 38.2-6506.

787 "Qualified employer" means a small employer that elects to make all of its full-time employees
788 eligible for one or more qualified health plans or qualified dental plans in the small group market offered
789 through the SHOP exchange and, at the employer's option, some or all of its part-time employees, provided
790 that the employer (i) has its principal place of business in the Commonwealth and elects to provide
791 coverage through the SHOP exchange to all of its eligible employees, wherever employed, or (ii) elects
792 to provide coverage through the SHOP exchange to all of its eligible employees who are principally
793 employed in the Commonwealth.

794 "Qualified health plan" means a health benefit plan that has in effect a certification that the plan
795 meets the criteria for certification described in § 1311(c) of the Federal Act and § 38.2-6506.

796 "Qualified individual" means an individual, including a minor, who (i) is seeking to enroll in a
797 qualified health plan or qualified dental plan offered to individuals through the Exchange; (ii) resides in

798 the Commonwealth; (iii) is not incarcerated at the time of enrollment, other than incarceration pending
799 the disposition of charges; and (iv) is, and is reasonably expected to be, for the entire period for which
800 enrollment is sought, a citizen or a national of the United States or an ~~alien~~ individual who is otherwise
801 lawfully present in the United States.

802 "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

803 "SHOP exchange" means the Small Business Health Options Program, established as a component
804 of the Exchange pursuant to this chapter, through which a qualified employer can provide its eligible
805 employees and their dependents with access to one or more qualified health plans or qualified dental plans.

806 "Small employer" means an employer that employed an average of not more than 50 employees
807 during the preceding calendar year. For the purposes of this definition: (a) all persons treated as a single
808 employer under subsection (b), (c), (m), or (o) of 26 U.S.C. § 414 shall be treated as a single employer;
809 (b) an employer and any predecessor employer shall be treated as a single employer; and (c) all employees
810 shall be counted, including part-time employees and employees who are not eligible for health insurance
811 coverage through the employer. If an employer was not in existence throughout the preceding calendar
812 year, the determination of whether the employer is a small employer shall be based on the average number
813 of employees reasonably expected to be employed by the employer on business days in the current
814 calendar year. An employer that makes enrollment in qualified health plans or qualified dental plans
815 available to its eligible employees through the SHOP exchange and that no longer meets the definition of
816 a small employer because of an increase in the number of its employees shall continue to be treated as a
817 small employer for purposes of this chapter as long as that employer continuously makes enrollment
818 through the SHOP exchange available to its eligible employees.

819 "Small group market" means the health insurance market under which individuals obtain health
820 insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents
821 through a group health plan maintained by a small employer.

822 "State-mandated health benefit" means coverage required under this title or other laws of the
823 Commonwealth to be provided in a policy of accident and sickness insurance, an accident and sickness

824 subscription contract, or a health maintenance organization health care plan that includes coverage for
825 specific health care services or benefits.

826 "State Medicaid Program" means the Commonwealth's Medicaid program under Title XIX of the
827 Social Security Act, as amended from time to time.

828 **§ 40.1-11.1. Employment of persons not eligible for employment in the United States.**

829 It shall be unlawful and constitute a Class 1 misdemeanor for any employer or any person acting
830 as an agent for an employer, or any person who, for a fee, refers ~~an alien~~ any individual who is not a
831 citizen or national of the United States and who cannot provide documents indicating that he or she is
832 legally eligible for employment in the United States for employment to an employer, or an officer, agent,
833 or representative of a labor organization to knowingly employ, continue to employ, or refer for
834 employment any ~~alien~~ individual who is not a citizen or national of the United States and who cannot
835 provide documents indicating that he or she is legally eligible for employment in the United States.

836 Permits issued by the United States Department of Justice authorizing an ~~alien~~ individual who is
837 not a citizen or national of the United States to work in the United States shall constitute proof of eligibility
838 for employment.

839 All employment application forms used by State and local governments and privately owned
840 businesses operating in the Commonwealth on and after January 1, 1978, shall ask prospective employees
841 if they are legally eligible for employment in the United States.

842 The provisions of this section shall not be deemed to require any employer to use employment
843 application forms.

844 **§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to United**
845 **States citizens, legal permanent residents, or holders of valid unexpired nonimmigrant visas;**
846 **exceptions; renewal, duplication, or reissuance.**

847 A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-
848 345, the Department shall not issue an original license, permit, or special identification card to any
849 applicant who has not presented to the Department, with the application, valid documentary evidence that
850 the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States,

851 (iii) a person with conditional resident-~~alien~~-of status in the United States, (iv) an approved applicant for
852 asylum in the United States, (v) an entrant into the United States in refugee status, or (vi) a citizen of the
853 Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, collectively
854 known as the Freely Associated States.

855 B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-
856 345, an applicant who presents in person valid documentary evidence that a federal court or federal agency
857 having jurisdiction over immigration has authorized the applicant to be in the United States or an applicant
858 for a REAL ID credential who provides evidence of temporary lawful status in the United States as
859 required pursuant to the REAL ID Act of 2005, as amended, and its implementing regulations may be
860 issued a limited-duration license, permit, or special identification card. Such limited-duration license,
861 permit, or special identification card shall be valid only during the period of time of the applicant's
862 authorized stay in the United States or if there is no definite end to the period of authorized stay a period
863 of one year. No license, permit, or special identification card shall be issued if an applicant's authorized
864 stay in the United States is less than 30 days from the date of application. Any limited-duration license,
865 permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is valid
866 for a limited period and shall state the date that it expires. Such a limited-duration license, permit, or
867 special identification card may be renewed only upon presentation of valid documentary evidence that the
868 status by which the applicant qualified for the limited-duration license, permit, or special identification
869 has been extended by a federal court or federal agency having jurisdiction over immigration.

870 C. Any license, permit, or special identification card for which an application has been made for
871 renewal, duplication, or reissuance shall be presumed to have been issued in accordance with the
872 provisions of subsection A, provided that, at the time the application is made, (i) the license, permit, or
873 special identification card has not expired or been cancelled, suspended, or revoked or (ii) the license,
874 permit, or special identification card has been canceled or suspended as a result of the applicant having
875 been placed under medical review by the Department pursuant to § 46.2-322. The requirements of
876 subsection A shall apply, however, to a renewal, duplication, or reissuance if the Department is notified

877 by a local, state, or federal government agency that the individual seeking such renewal, duplication, or
878 reissuance is neither a citizen of the United States nor legally in the United States.

879 D. The Department shall cancel any license, permit, or special identification card that it has issued
880 to an individual if it is notified by a federal government agency that the individual is neither a citizen of
881 the United States nor legally present in the United States.

882 E. For any applicant who presents a document pursuant to this section proving legal presence other
883 than citizenship, the Department shall record and provide to the State Board of Elections monthly the
884 applicant's document number, if any, issued by an agency or court of the United States government.

885 **§ 46.2-341.12. (Contingent expiration date) Application for commercial driver's license or**
886 **commercial learner's permit.**

887 A. Every application to the Department for a commercial driver's license or commercial learner's
888 permit shall be made upon a form approved and furnished by the Department, and the applicant shall write
889 his usual signature in ink in the space provided. The applicant shall provide the following information:

- 890 1. Full legal name;
- 891 2. Current mailing and residential addresses;
- 892 3. Physical description including sex, height, weight, and eye and hair color;
- 893 4. Year, month, and date of birth;
- 894 5. Social security number;
- 895 6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active
896 duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard
897 Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and
- 898 7. Any other information required on the application form.

899 Applicants shall be permitted to choose between "male," "female," or "non-binary" when
900 designating the applicant's sex on the commercial driver's license or commercial learner's permit
901 application form.

902 The applicant's social security number shall be provided to the Commercial Driver's License
903 Information System as required by 49 C.F.R. § 383.153.

904 B. Every applicant for a commercial driver's license or commercial learner's permit shall also
905 submit to the Department the following:

906 1. A consent to release driving record information;

907 2. Certifications that:

908 a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is
909 exempt from or is not subject to such federal requirements;

910 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is
911 exempt from or is not subject to such requirements;

912 c. The motor vehicle in which the applicant takes the skills test is representative of the class and,
913 if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

914 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving
915 privileges;

916 e. He does not have more than one driver's license;

917 3. Other certifications required by the Department;

918 4. Any evidence required by the Department to establish proof of identity, citizenship or lawful
919 permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1
920 and pursuant to 49 C.F.R. Part 383;

921 5. A statement indicating whether (i) the applicant has previously been licensed to drive any type
922 of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates
923 he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked
924 or canceled and, if so, the date of and reason therefor; and

925 6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and
926 Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94
927 documenting the applicant's most recent admittance into the United States for persons applying for a
928 nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

929 C. Every application for a commercial driver's license shall include a photograph of the applicant
930 supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

931 D. The Department shall disqualify any commercial driver for a period of one year when the
932 records of the Department clearly show to the satisfaction of the Commissioner that such person has made
933 a material false statement on any application or certification made for a commercial driver's license or
934 commercial learner's permit. The Department shall take such action within 30 days after discovering such
935 falsification.

936 E. (Contingent expiration date) The Department shall review the driving record of any person who
937 applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or
938 reinstatement of such license or permit or for an additional commercial classification or endorsement,
939 including the driving record from all jurisdictions where, during the previous 10 years, the applicant was
940 licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record
941 whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a
942 duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial
943 learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions'
944 records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving
945 record confirming that such review has been completed and the date it was completed. The Department's
946 review shall include research through the Commercial Driver License Information System established
947 pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver
948 Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of
949 licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a
950 commercial driver's license or additional commercial classification or endorsement.

951 The Department shall verify the name, date of birth, and social security number provided by the
952 applicant with the information on file with the Social Security Administration for initial issuance of a
953 commercial learner's permit or transfer of a commercial driver's license from another state. The
954 Department shall make a notation in the driver's record confirming that the necessary verification has been
955 completed and noting the date it was done. The Department shall also make a notation confirming that
956 proof of citizenship or lawful permanent residency has been presented and the date it was done.

957 E. (Contingent effective date) The Department shall review the driving record of any person who
958 applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or
959 reinstatement of such license or permit or for an additional commercial classification or endorsement,
960 including the driving record from all jurisdictions where, during the previous 10 years, the applicant was
961 licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record
962 whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a
963 duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial
964 learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions'
965 records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving
966 record confirming that such review has been completed and the date it was completed. The Department's
967 review shall include (i) research through the Commercial Driver License Information System established
968 pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver
969 Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of
970 licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49
971 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or
972 reinstatement of a commercial driver's license or additional commercial classification or endorsement.

973 The Department shall verify the name, date of birth, and social security number provided by the
974 applicant with the information on file with the Social Security Administration for initial issuance of a
975 commercial learner's permit or transfer of a commercial driver's license from another state. The
976 Department shall make a notation in the driver's record confirming that the necessary verification has been
977 completed and noting the date it was done. The Department shall also make a notation confirming that
978 proof of citizenship or lawful permanent residency has been presented and the date it was done.

979 F. Every new applicant for a commercial driver's license or commercial learner's permit, including
980 any person applying for a commercial driver's license or permit after revocation of his driving privileges,
981 who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate
982 commerce shall provide the Department with an original or certified copy of a medical examiner's
983 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate

984 medical examiner's certificate, the Department shall post a certification status of "certified" on the record
985 of the driver on the Commercial Driver's License Information System. Any new applicant for a
986 commercial driver's license or commercial learner's permit who fails to comply with the requirements of
987 this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit
988 by the Department.

989 G. Every existing holder of a commercial driver's license or commercial learner's permit who
990 certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce
991 shall provide the Department with an original or certified copy of a medical examiner's certificate prepared
992 by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's
993 certificate, the Department shall post a certification status of "certified" and any other necessary
994 information on the record of the driver on the Commercial Driver's License Information System. If an
995 existing holder of a commercial driver's license fails to provide the Department with a medical certificate
996 as required by this subsection, the Department shall post a certification status of "noncertified" on the
997 record of the driver on the Commercial Driver's License Information System and initiate a downgrade of
998 his commercial driver's license as defined in 49 C.F.R. § 383.5.

999 H. Any person who provides a medical certificate to the Department pursuant to the requirements
1000 of subsections F and G shall keep the medical certificate information current and shall notify the
1001 Department of any change in the status of the medical certificate. If the Department determines that the
1002 medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial
1003 driver's license as defined in 49 C.F.R. § 383.5.

1004 I. If the Department receives notice that the holder of a commercial driver's license has been issued
1005 a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such
1006 medical variance on the commercial driver's license document of the driver and on the record of the driver
1007 on the Commercial Driver's License Information System using the restriction code "V."

1008 J. Any holder of a commercial driver's license who has been issued a medical variance shall keep
1009 the medical variance information current and shall notify the Department of any change in the status of
1010 the medical variance. If the Department determines that the medical variance is no longer valid, the

1011 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.
1012 § 383.5.

1013 K. Any applicant applying for a hazardous materials endorsement must comply with
1014 Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident
1015 of the United States requesting a hazardous materials endorsement must additionally provide his
1016 registration number assigned by U.S. Citizenship and Immigration Services (USCIS)~~alien registration~~
1017 ~~number~~.

1018 L. Notwithstanding the provisions of § 46.2-208, the Department may release to the FMCSA
1019 medical information relating to the issuance of a commercial driver's license or a commercial learner's
1020 permit collected by the Department pursuant to the provisions of subsections F, G, H, I, and J.

1021 **§ 46.2-341.12. (Contingent effective date) Application for commercial driver's license or**
1022 **commercial learner's permit.**

1023 A. No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial
1024 driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the
1025 first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first time,
1026 unless he has completed an entry-level driver training course related to the license, classification, or
1027 endorsement he is applying for and the training is provided by a training provider. An individual is not
1028 required to complete an entry-level driver training course related to the license, classification, or
1029 endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.

1030 B. Every application to the Department for a commercial driver's license or commercial learner's
1031 permit shall be made upon a form approved and furnished by the Department, and the applicant shall write
1032 his usual signature in ink in the space provided. The applicant shall provide the following information:

- 1033 1. Full legal name;
- 1034 2. Current mailing and residential addresses;
- 1035 3. Physical description including sex, height, weight, and eye and hair color;
- 1036 4. Year, month, and date of birth;
- 1037 5. Social security number;

1038 6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active
1039 duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard
1040 Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

1041 7. Any other information required on the application form.

1042 Applicants shall be permitted to choose between "male," "female," or "non-binary" when
1043 designating the applicant's sex on the commercial driver's license or commercial learner's permit
1044 application form.

1045 The applicant's social security number shall be provided to the Commercial Driver's License
1046 Information System as required by 49 C.F.R. § 383.153.

1047 C. Every applicant for a commercial driver's license or commercial learner's permit shall also
1048 submit to the Department the following:

1049 1. A consent to release driving record information;

1050 2. Certifications that:

1051 a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is
1052 exempt from or is not subject to such federal requirements;

1053 b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is
1054 exempt from or is not subject to such requirements;

1055 c. The motor vehicle in which the applicant takes the skills test is representative of the class and,
1056 if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

1057 d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving
1058 privileges;

1059 e. He does not have more than one driver's license;

1060 3. Other certifications required by the Department;

1061 4. Any evidence required by the Department to establish proof of identity, citizenship or lawful
1062 permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1
1063 and pursuant to 49 C.F.R. Part 383;

1064 5. A statement indicating whether (i) the applicant has previously been licensed to drive any type
1065 of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates
1066 he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked
1067 or canceled and, if so, the date of and reason therefor; and

1068 6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and
1069 Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94
1070 documenting the applicant's most recent admittance into the United States for persons applying for a
1071 nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

1072 D. Every application for a commercial driver's license shall include a photograph of the applicant
1073 supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

1074 E. The Department shall disqualify any commercial driver for a period of one year when the
1075 records of the Department clearly show to the satisfaction of the Commissioner that such person has made
1076 a material false statement on any application or certification made for a commercial driver's license or
1077 commercial learner's permit. The Department shall take such action within 30 days after discovering such
1078 falsification.

1079 F. (Contingent expiration date) The Department shall review the driving record of any person who
1080 applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or
1081 reinstatement of such license or permit or for an additional commercial classification or endorsement,
1082 including the driving record from all jurisdictions where, during the previous 10 years, the applicant was
1083 licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record
1084 whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a
1085 duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial
1086 learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions'
1087 records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving
1088 record confirming that such review has been completed and the date it was completed. The Department's
1089 review shall include research through the Commercial Driver License Information System established
1090 pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver

1091 Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of
1092 licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a
1093 commercial driver's license or additional commercial classification or endorsement.

1094 The Department shall verify the name, date of birth, and social security number provided by the
1095 applicant with the information on file with the Social Security Administration for initial issuance of a
1096 commercial learner's permit or transfer of a commercial driver's license from another state. The
1097 Department shall make a notation in the driver's record confirming that the necessary verification has been
1098 completed and noting the date it was done. The Department shall also make a notation confirming that
1099 proof of citizenship or lawful permanent residency has been presented and the date it was done.

1100 F. (Contingent effective date) The Department shall review the driving record of any person who
1101 applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or
1102 reinstatement of such license or permit or for an additional commercial classification or endorsement,
1103 including the driving record from all jurisdictions where, during the previous 10 years, the applicant was
1104 licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record
1105 whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a
1106 duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial
1107 learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions'
1108 records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving
1109 record confirming that such review has been completed and the date it was completed. The Department's
1110 review shall include (i) research through the Commercial Driver License Information System established
1111 pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver
1112 Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of
1113 licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49
1114 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or
1115 reinstatement of a commercial driver's license or additional commercial classification or endorsement.

1116 The Department shall verify the name, date of birth, and social security number provided by the
1117 applicant with the information on file with the Social Security Administration for initial issuance of a

1118 commercial learner's permit or transfer of a commercial driver's license from another state. The
1119 Department shall make a notation in the driver's record confirming that the necessary verification has been
1120 completed and noting the date it was done. The Department shall also make a notation confirming that
1121 proof of citizenship or lawful permanent residency has been presented and the date it was done.

1122 G. Every new applicant for a commercial driver's license or commercial learner's permit, including
1123 any person applying for a commercial driver's license or permit after revocation of his driving privileges,
1124 who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate
1125 commerce shall provide the Department with an original or certified copy of a medical examiner's
1126 certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate
1127 medical examiner's certificate, the Department shall post a certification status of "certified" on the record
1128 of the driver on the Commercial Driver's License Information System. Any new applicant for a
1129 commercial driver's license or commercial learner's permit who fails to comply with the requirements of
1130 this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit
1131 by the Department.

1132 H. Every existing holder of a commercial driver's license or commercial learner's permit who
1133 certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce
1134 shall provide the Department with an original or certified copy of a medical examiner's certificate prepared
1135 by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's
1136 certificate, the Department shall post a certification status of "certified" and any other necessary
1137 information on the record of the driver on the Commercial Driver's License Information System. If an
1138 existing holder of a commercial driver's license fails to provide the Department with a medical certificate
1139 as required by this subsection, the Department shall post a certification status of "noncertified" on the
1140 record of the driver on the Commercial Driver's License Information System and initiate a downgrade of
1141 his commercial driver's license as defined in 49 C.F.R. § 383.5.

1142 I. Any person who provides a medical certificate to the Department pursuant to the requirements
1143 of subsections G and H shall keep the medical certificate information current and shall notify the
1144 Department of any change in the status of the medical certificate. If the Department determines that the

1145 medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial
1146 driver's license as defined in 49 C.F.R. § 383.5.

1147 J. If the Department receives notice that the holder of a commercial driver's license has been issued
1148 a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such
1149 medical variance on the commercial driver's license document of the driver and on the record of the driver
1150 on the Commercial Driver's License Information System using the restriction code "V."

1151 K. Any holder of a commercial driver's license who has been issued a medical variance shall keep
1152 the medical variance information current and shall notify the Department of any change in the status of
1153 the medical variance. If the Department determines that the medical variance is no longer valid, the
1154 Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R.
1155 § 383.5.

1156 L. Any applicant applying for a hazardous materials endorsement must comply with
1157 Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident
1158 of the United States requesting a hazardous materials endorsement must additionally provide his
1159 registration number assigned by U.S. Citizenship and Immigration Services (USCIS) ~~alien registration~~
1160 ~~number~~.

1161 M. Notwithstanding the provisions of § 46.2-208, the Department may release to the FMCSA
1162 medical information relating to the issuance of a commercial driver's license or a commercial learner's
1163 permit collected by the Department pursuant to the provisions of subsections F, G, H, I, and J.

1164 **§ 47.1-2. Definitions.**

1165 As used in this title, unless the context demands a different meaning:

1166 "Acknowledgment" means a notarial act in which an individual at a single time and place (i)
1167 appears in person before the notary and presents a document; (ii) is personally known to the notary or
1168 identified by the notary through satisfactory evidence of identity; and (iii) indicates to the notary that the
1169 signature on the document was voluntarily affixed by the individual for the purposes stated within the
1170 document and, if applicable, that the individual had due authority to sign in a particular representative
1171 capacity.

1172 "Affirmation" means a notarial act, or part thereof, that is legally equivalent to an oath and in
1173 which an individual at a single time and place (i) appears in person before the notary and presents a
1174 document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence
1175 of identity; and (iii) makes a vow of truthfulness or fidelity on penalty of perjury.

1176 "Commissioned notary public" means that the applicant has completed and submitted the
1177 registration forms along with the appropriate fee to the Secretary of the Commonwealth and the Secretary
1178 of the Commonwealth has determined that the applicant meets the qualifications to be a notary public and
1179 issues a notary commission and forwards same to the clerk of the circuit court, pursuant to this chapter.

1180 "Copy certification" means a notarial act in which a notary (i) is presented with a document that is
1181 not a public record; (ii) copies or supervises the copying of the document using a photographic or
1182 electronic copying process; (iii) compares the document to the copy; and (iv) determines that the copy is
1183 accurate and complete.

1184 "Credential analysis" means a process or service that independently affirms the veracity of a
1185 government-issued identity credential by reviewing public or proprietary data sources and meets the
1186 standards of the Secretary of the Commonwealth.

1187 "Credible witness" means an honest, reliable, and impartial person who personally knows an
1188 individual appearing before a notary and takes an oath or affirmation from the notary to confirm that
1189 individual's identity.

1190 "Document" means information that is inscribed on a tangible medium or that is stored in an
1191 electronic or other medium and is retrievable in perceivable form, including a record as defined in the
1192 Uniform Electronic Transactions Act (§ 59.1-479 et seq.).

1193 "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
1194 electromagnetic, or similar capabilities.

1195 "Electronic document" means information that is created, generated, sent, communicated,
1196 received, or stored by electronic means.

1197 "Electronic notarial act" or "electronic notarization" means an official act by a notary under § 47.1-
1198 12 or as otherwise authorized by law that involves electronic documents.

1199 "Electronic notarial certificate" means the portion of a notarized electronic document that is
1200 completed by the notary public, bears the notary public's signature, title, commission expiration date, and
1201 other required information concerning the date and place of the electronic notarization, and states the facts
1202 attested to or certified by the notary public in a particular notarization. The "electronic notarial certificate"
1203 shall indicate whether the notarization was done in person or by remote online notarization.

1204 "Electronic notary public" or "electronic notary" means a notary public who has been
1205 commissioned by the Secretary of the Commonwealth with the capability of performing electronic notarial
1206 acts under § 47.1-7.

1207 "Electronic notary seal" or "electronic seal" means information within a notarized electronic
1208 document that confirms the notary's name, jurisdiction, and commission expiration date and generally
1209 corresponds to data in notary seals used on paper documents.

1210 "Electronic signature" means an electronic sound, symbol, or process attached to or logically
1211 associated with an electronic document and executed or adopted by a person with the intent to sign the
1212 document.

1213 "Identity proofing" means a process or service that independently verifies an individual's identity
1214 in accordance with § 2.2-436.

1215 "Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or
1216 47.1-13 or as otherwise authorized by law.

1217 "Notarial certificate" or "certificate" means the part of, or attachment to, a notarized document that
1218 is completed by the notary public, bears the notary public's signature, title, commission expiration date,
1219 notary registration number, and other required information concerning the date and place of the
1220 notarization and states the facts attested to or certified by the notary public in a particular notarization.

1221 "Notary public" or "notary" means any person commissioned to perform official acts under the
1222 title, and includes an electronic notary except where expressly provided otherwise.

1223 "Oath" shall include "affirmation."

1224 "Official misconduct" means any violation of this title by a notary, whether committed knowingly,
1225 willfully, recklessly or negligently.

1226 "Personal knowledge of identity" or "personally knows" means familiarity with an individual
1227 resulting from interactions with that individual over a period of time sufficient to dispel any reasonable
1228 uncertainty that the individual has the identity claimed.

1229 "Principal" means (i) a person whose signature is notarized or (ii) a person, other than a credible
1230 witness, taking an oath or affirmation from the notary.

1231 "Record of notarial acts" means a device for creating and preserving a chronological record of
1232 notarizations performed by a notary.

1233 "Remote online notarization" means an electronic notarization under this chapter where the signer
1234 is not in the physical presence of the notary.

1235 "Satisfactory evidence of identity" means identification of an individual based on (i) examination
1236 of one or more of the following unexpired documents bearing a photographic image of the individual's
1237 face and signature: a United States Passport Book, a United States Passport Card, a certificate of United
1238 States citizenship, a certificate of naturalization, a foreign passport, ~~an alien registration~~ a permanent
1239 resident card with photograph, a state issued driver's license or a state issued identification card or a United
1240 States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or
1241 transaction who is personally known to the notary and who personally knows the individual or of two
1242 credible witnesses unaffected by the document or transaction who each personally knows the individual
1243 and shows to the notary documentary identification as described in clause (i). In the case of an individual
1244 who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the State
1245 Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or exempt from
1246 licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United States Passport
1247 Card, expired foreign passport, or expired state issued driver's license or state issued identification card
1248 may also be used for identification of such individual, provided that the expiration of such document
1249 occurred within five years of the date of use for identification purposes pursuant to this title. In the case
1250 of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio
1251 conference technology, in accordance with the standards for electronic video and audio communications
1252 set out in subdivisions B 1, 2, and 3 of § 19.2-3.1, that permits the notary to communicate with and identify

1253 the principal at the time of the notarial act, provided that such identification is confirmed by (a) personal
1254 knowledge, (b) an oath or affirmation of a credible witness, or (c) at least two of the following: (1)
1255 credential analysis of an unexpired government-issued identification bearing a photograph of the
1256 principal's face and signature, (2) identity proofing by an antecedent in-person identity proofing process
1257 in accordance with the specifications of the Federal Bridge Certification Authority, (3) another identity
1258 proofing method authorized in guidance documents, regulations, or standards adopted pursuant to § 2.2-
1259 436, or (4) a valid digital certificate accessed by biometric data or by use of an interoperable Personal
1260 Identity Verification card that is designed, issued, and managed in accordance with the specifications
1261 published by the National Institute of Standards and Technology in Federal Information Processing
1262 Standards Publication 201-1, "Personal Identity Verification (PIV) of Federal Employees and
1263 Contractors," and supplements thereto or revisions thereof, including the specifications published by the
1264 Federal Chief Information Officers Council in "Personal Identity Verification Interoperability for Non-
1265 Federal Issuers."

1266 "Seal" means a device for affixing on a paper document an image containing the notary's name
1267 and other information related to the notary's commission.

1268 "Secretary" means the Secretary of the Commonwealth.

1269 "State" includes any state, territory, or possession of the United States.

1270 "Verification of fact" means a notarial act in which a notary reviews public or vital records to (i)
1271 ascertain or confirm facts regarding a person's identity, identifying attributes, or authorization to access a
1272 building, database, document, network, or physical site or (ii) validate an identity credential on which
1273 satisfactory evidence of identity may be based.

1274 **§ 50-73.52:6. Involuntary cancellation of limited partnership existence.**

1275 A. The existence of a limited partnership may be canceled involuntarily by order of the
1276 Commission when it finds that the limited partnership has:

- 1277 1. Continued to exceed or abuse the authority conferred on it by law;
- 1278 2. Failed to maintain a registered office or a registered agent in the Commonwealth as required by
1279 law;

1280 3. Failed to file any document required by this chapter to be filed with the Commission; or
1281 4. Been convicted for a violation of 8 U.S.C. § ~~1324a~~ (f) 1324a(f), as amended, for actions of its
1282 partners constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful employment in the
1283 Commonwealth as described in that section.

1284 B. Before entering any such order, the Commission shall issue a rule against the limited partnership
1285 giving it an opportunity to be heard and show cause why such an order should not be entered. The
1286 Commission may issue the rule on its own motion or on motion of the Attorney General.

1287 C. The properties and affairs of a limited partnership whose existence has been canceled pursuant
1288 to this section shall pass automatically to its general partners as trustees in liquidation. The trustees shall
1289 then proceed to (i) collect the assets of the limited partnership; (ii) sell, convey, and dispose of such of its
1290 properties as are not to be distributed in kind to its partners; (iii) pay, satisfy, and discharge its liabilities
1291 and obligations; and (iv) do all other acts required to liquidate its business and affairs. After paying or
1292 adequately providing for the payment of all its obligations, the trustees shall distribute the remainder of
1293 its assets, either in cash or in kind, among its partners according to their respective rights and interests.

1294 D. Any limited partnership convicted of the offense listed in subdivision A 4 shall immediately
1295 report such conviction to the Commission and file with the Commission an authenticated copy of the
1296 judgment or record of conviction. A limited partnership whose existence is canceled pursuant to
1297 subdivision A 4 shall not be eligible for reinstatement for a period of not less than one year.

1298 **§ 50-73.58:2. Involuntary cancellation of certificate of registration.**

1299 A. The certificate of registration to transact business in the Commonwealth of any foreign limited
1300 partnership may be canceled involuntarily by order of the Commission when it finds that the foreign
1301 limited partnership:

- 1302 1. Has continued to exceed or abuse the authority conferred on it by law;
- 1303 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
1304 by law;
- 1305 3. Has failed to file any document required by this chapter to be filed with the Commission;
- 1306 4. No longer exists under the laws of the state or other jurisdiction of its formation; or

1307 5. Has been convicted for a violation of 8 U.S.C. § ~~1324a (f)~~ 1324a(f), as amended, for actions of
1308 its partners constituting a pattern or practice of ~~employing unauthorized aliens~~ unlawful employment in
1309 the Commonwealth as described in that section.

1310 B. Before entering any such order, the Commission shall issue a rule against the limited partnership
1311 giving it an opportunity to be heard and show cause why such an order should not be entered. The
1312 Commission may issue the rule on its own motion or on motion of the Attorney General.

1313 C. The authority of a foreign limited partnership to transact business in the Commonwealth ceases
1314 on the date shown on the order canceling its certificate of registration.

1315 D. The Commission's cancellation of a foreign limited partnership's certificate of registration
1316 appoints the clerk of the Commission the limited partnership's agent for service of process in any
1317 proceeding based on a cause of action arising during the time the limited partnership was authorized to
1318 transact business in the Commonwealth. Service of process on the clerk of the Commission under this
1319 subsection is service on the foreign limited partnership and shall be made on the clerk in accordance with
1320 § 12.1-19.1.

1321 E. Cancellation of a foreign limited partnership's certificate of registration does not terminate the
1322 authority of the registered agent of the foreign limited partnership.

1323 F. Any foreign limited partnership convicted of the offense listed in subdivision A 5 shall
1324 immediately report such conviction to the Commission and file with the Commission an authenticated
1325 copy of the judgment or record of conviction. A certificate of registration canceled pursuant to subdivision
1326 A 5 shall not be eligible for reinstatement for a period of not less than one year.

1327 CHAPTER 10.

1328 COMMITMENT OF ~~ALIENS~~ NONCITIZENS.

1329 **§ 53.1-218. Duty of officer in charge to inquire as to citizenship; notice to federal immigration**
1330 **officer of commitment of noncitizen.**

1331 Whenever any person is committed to a correctional facility for the commission of a felony, the
1332 director, sheriff or other officer in charge of such facility shall inquire as to whether the person (i) was
1333 born in a country other than the United States and (ii) is a citizen of a country other than the United States.

1334 The director, sheriff or other officer in charge of such facility shall make an immigration alien query to
1335 the Law Enforcement Support Center of the U.S. Immigration and Customs Enforcement for any person
1336 committed to the facility for the commission of a felony who (i) was born in a country other than the
1337 United States and (ii) is a citizen of a country other than the United States, or for whom the answer to
1338 clause (i) or (ii) is unknown.

1339 In the case of a jail, the sheriff, or other officer in charge of such facility shall communicate the
1340 results of any immigration alien query that confirm that the person is illegally present in the United States
1341 to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall
1342 communicate, on a monthly basis, the results of any immigration alien query that results in a confirmation
1343 that the person is illegally present in the United States to the Central Criminal Records Exchange of the
1344 Department of State Police in a format approved by the Exchange.

1345 In the case of a correctional facility of the Department of Corrections, the director or other officer
1346 in charge of such facility shall communicate the results of any immigration alien query that results in a
1347 confirmation that the person is illegally present in the United States to the Central Criminal Records
1348 Exchange of the Department of State Police in a format approved by the Exchange.

1349 The information received by the Central Criminal Records Exchange concerning the person's
1350 immigration status shall be recorded in the person's criminal history record.

1351 However, notification shall not be made to the Central Criminal Records Exchange if it is apparent
1352 that a report on ~~alien~~ citizenship or immigration status has previously been made to the Exchange pursuant
1353 to § 19.2-83.2 or 19.2-294.2.

1354 **§ 53.1-219. Duty of clerk to furnish copy of complaint, indictment, judgment and sentence.**

1355 Upon the official request of the United States immigration officer in charge of the territory or
1356 district in which is located any court committing any ~~alien~~ person who is not a citizen or national of the
1357 United States to any correctional facility for the commission of a felony, it shall be the duty of the clerk
1358 of such court to furnish without charge a certified copy, in duplicate, of the complaint, information or
1359 indictment and the judgment and sentence and any other records pertaining to the case of the convicted
1360 alien person.

1361 **§ 53.1-220.1. Transfer of prisoners convicted of designated illegal acts.**

1362 With the consent of the appropriate state authorities, ~~the U.S. Immigration and Naturalization~~
1363 ~~Service~~ Customs Enforcement may, following notification under § 19.2-294.2, take physical custody of
1364 and responsibility for any ~~alien~~ person who is not a citizen or national of the United States who is convicted
1365 of any (i) felony offense involving murder, rape, robbery, burglary, larceny, extortion, or abduction, or
1366 (ii) illegal drug violation designated as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
1367 18.2. The director, sheriff, or other official in charge of the facility in which such ~~alien~~ person is
1368 incarcerated may enter into an agreement, which includes provisions relating to reimbursement, with ~~the~~
1369 U.S. Immigration and Naturalization Service Customs Enforcement to retain custody or supervision of
1370 such ~~alien~~ person until he is deported or until other mutually satisfactory arrangements are made to transfer
1371 custody of such ~~alien~~ person to ~~the Service~~ U.S. Immigration and Customs Enforcement.

1372 **§ 53.1-220.2. Transfer of certain incarcerated persons to Immigration and Customs**
1373 **Enforcement.**

1374 The Director, sheriff, or other official in charge of the facility in which ~~an alien~~ a person who is
1375 not a citizen or national of the United States is incarcerated may, upon receipt of a detainer from U.S.
1376 Immigration and Customs Enforcement, transfer custody of ~~the alien~~ such person to U.S. Immigration and
1377 Customs Enforcement no more than five days prior to the date that he would otherwise be released from
1378 custody. Upon transfer of custody, notwithstanding any other provision of law, ~~the alien~~ such person shall
1379 receive credit for the number of days remaining before he would otherwise have been released.

1380 **§ 55.1-100. Noncitizens may acquire, hold, and transmit real estate; when reciprocity**
1381 **required.**

1382 Any ~~alien~~ person, not an enemy, who is a noncitizen of the United States may acquire by purchase
1383 or descent and hold real estate in the Commonwealth, and such real estate shall be transmitted in the same
1384 manner as real estate held by citizens. However, if, at the time of the transfer, a court of the Commonwealth
1385 determines that the laws of a foreign country or sovereignty effectively deny a Virginia resident, legatee,
1386 or distributee the benefit, use, or control of money or other property held in such foreign country or
1387 sovereignty, a judgment or order issued in the Commonwealth concerning the rights of a resident of that

1388 foreign country or sovereignty to the benefit, use, or control of money or property held in the
1389 Commonwealth may direct that the money or property be paid into the court for the benefit of the ~~alien~~
1390 noncitizen. The money or property paid into court shall be paid out only upon order of the court or pursuant
1391 to the order or judgment of a court of competent jurisdiction. Any of the money or property remaining
1392 with the court upon expiration of three years from the decedent's death shall be paid out by the court as if
1393 the ~~alien~~ noncitizen had predeceased the decedent.

1394 **§ 58.1-904. Tax upon estates of nonresident or noncitizen decedents.**

1395 A. A tax in an amount computed as provided in this section is imposed upon the transfer of real
1396 property and tangible personal property having an actual situs in the Commonwealth of Virginia and upon
1397 intangible personal property physically present within the Commonwealth of every person who at the time
1398 of death was not a resident of the United States.

1399 The tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator
1400 of which is the value of that part of the gross estate over which Virginia has jurisdiction for estate tax
1401 purposes and the denominator of which is the decedent's gross estate taxable by the United States wherever
1402 situated.

1403 B. ~~Resident aliens~~ Lawful permanent residents or conditional residents of the United States, or
1404 persons with substantial presence in the United States, shall be subject to the tax imposed by this chapter
1405 under § 58.1-903 when the decedent, at the time of death, was not a resident of Virginia but was a resident
1406 of the United States. A lawful permanent resident ~~alien~~ or conditional resident of the United States, or
1407 person with substantial presence in the United States, who, at the time of death, was a resident of Virginia
1408 and a resident of the United States shall be subject to the tax imposed by this chapter under § 58.1-902.

1409 C. For purposes of this section, stock in a corporation organized under the laws of the
1410 Commonwealth shall be deemed physically present within the Commonwealth.

1411 **§ 60.2-214. Agricultural employment.**

1412 A. "Employment" includes service performed by an individual in agricultural labor as defined in
1413 § 60.2-201 when:

1414 1. Such service is performed for a person who:

1415 a. During any calendar quarter in either the current or the preceding calendar year paid wages of
1416 \$20,000 or more to individuals employed in agricultural labor, including labor performed by ~~an alien a~~
1417 noncitizen referred to in subdivision 2 ~~of this subsection~~; or

1418 b. For some portion of a day in each of ~~twenty~~ 20 different calendar weeks, whether or not such
1419 weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural
1420 labor, including labor performed by ~~an alien a~~ noncitizen referred to in subdivision 2 ~~of this subsection~~,
1421 ~~ten~~ 10 or more individuals, regardless of whether they were employed at the same moment of time.

1422 2. Such service is not performed in agricultural labor by an individual who is ~~an alien a~~ noncitizen
1423 admitted to the United States to perform service in agricultural labor pursuant to 8 U.S.C. § 214 (c) and 8
1424 U.S.C. § 101 (a) (15) (H) of the Immigration and Nationality Act. Services performed and wages received
1425 by such ~~alien~~ workers after January 1, 1980, shall be counted in determining whether an employer is
1426 subject to the Virginia unemployment tax for his other farmworkers.

1427 B. For the purposes of this section any individual who is a member of a crew furnished by a crew
1428 leader to perform service in agricultural labor for any other person shall be treated as an employee of such
1429 crew leader if:

1430 1. Such crew leader holds a valid certificate of registration under the Migrant and Seasonal
1431 Agricultural Workers Protection Act of 1983 (29 U.S.C. § 1801 et seq.) or substantially all the members
1432 of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other
1433 mechanized equipment, which is provided by such crew leader, and

1434 2. Such individual is not an employee of such other person within the meaning of subdivision A 1
1435 ~~of subsection A~~ of § 60.2-212.

1436 C. For the purposes of this section, in the case of any individual who is furnished by a crew leader
1437 to perform service in agricultural labor for any other person and who is not treated as an employee of such
1438 crew leader under subsection B ~~of this section~~ then:

1439 1. Such other person and not the crew leader shall be treated as the employer of such individual,
1440 and

1441 2. Such other person shall be treated as having paid wages to such individual in an amount equal
1442 to the amount of wages paid to such individual by the crew leader, either on his own behalf or on behalf
1443 of such other person, for the service in agricultural labor performed for such other person.

1444 D. For the purposes of this section, the term "crew leader" means an individual who:

1445 1. Furnishes individuals to perform service in agricultural labor for any other person;²

1446 2. Pays, either on his own behalf or on behalf of such other person, the individuals so furnished by
1447 him for the service in agricultural labor performed by them;² and

1448 3. Has not entered into a written agreement with such other person under which such individual is
1449 designated as an employee of such other person.

1450 **§ 60.2-617. Benefits denied to certain noncitizens.**

1451 A. Benefits shall not be paid on the basis of services performed by ~~an alien~~ a person who is not a
1452 citizen or national of the United States unless such individual was lawfully admitted for permanent
1453 residence at the time such services were performed, was lawfully present for purposes of performing such
1454 services, or was permanently and lawfully residing in the United States under color of law at the time such
1455 services were performed. The provisions of this subsection shall include ~~aliens~~ persons who were lawfully
1456 present in the United States as a result of the application of the provisions of § 1153 (a) (7) or § 1182 (d)
1457 (5) of the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.). Additionally, any modifications to
1458 the provisions of § 3304 (a) (14) of the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.) which
1459 specify other conditions or other effective dates than stated herein for the denial of benefits based on
1460 services performed by ~~aliens~~ persons who are not citizens or nationals of the United States and which
1461 modifications are required to be implemented under state law as a condition for full tax credit against the
1462 tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of
1463 this section.

1464 B. Any data or information required of individuals claiming benefits to determine whether benefits
1465 are not payable to them because of their ~~alien~~ citizenship status shall be uniformly required from all
1466 applicants for benefits.

1467 C. In the case of an individual whose claim for benefits would otherwise be approved, no
1468 determination that benefits to such individual are not payable because of his ~~alien~~ citizenship status shall
1469 be made except upon a preponderance of the evidence.

1470 **§ 64.2-203. Inheritance rights of certain individuals.**

1471 A. Except as otherwise provided by law, no person is barred from inheriting because such person
1472 or a person through whom he claims his inheritance is not or has been an alien was not a citizen or national
1473 of the United States.

1474 B. A person who is related to the decedent through two lines of relationship is entitled to only a
1475 single share based on the relationship that would entitle him to the larger share.

1476 **§ 65.2-101. Definitions.**

1477 As used in this title:

1478 "Average weekly wage" means:

1479 1. a. The earnings of the injured employee in the employment in which he was working at the time
1480 of the injury during the period of 52 weeks immediately preceding the date of the injury, divided by 52;
1481 but if the injured employee lost more than seven consecutive calendar days during such period, although
1482 not in the same week, then the earnings for the remainder of the 52 weeks shall be divided by the number
1483 of weeks remaining after the time so lost has been deducted. When the employment prior to the injury
1484 extended over a period of less than 52 weeks, the method of dividing the earnings during that period by
1485 the number of weeks and parts thereof during which the employee earned wages shall be followed,
1486 provided that results fair and just to both parties will be thereby obtained. When, by reason of a shortness
1487 of time during which the employee has been in the employment of his employer or the casual nature or
1488 terms of his employment, it is impractical to compute the average weekly wages as above defined, regard
1489 shall be had to the average weekly amount which during the 52 weeks previous to the injury was being
1490 earned by a person of the same grade and character employed in the same class of employment in the same
1491 locality or community.

1492 b. When for exceptional reasons the foregoing would be unfair either to the employer or employee,
1493 such other method of computing average weekly wages may be resorted to as will most nearly approximate
1494 the amount which the injured employee would be earning were it not for the injury.

1495 2. Whenever allowances of any character made to an employee in lieu of wages are a specified
1496 part of the wage contract, they shall be deemed a part of his earnings. For the purpose of this title, the
1497 average weekly wage of the members of the Virginia National Guard and the Virginia Defense Force,
1498 registered members on duty or in training of the United States Civil Defense Corps of the Commonwealth,
1499 volunteer firefighters engaged in firefighting activities under the supervision and control of the
1500 Department of Forestry, and forest wardens shall be deemed to be such amount as will entitle them to the
1501 maximum compensation payable under this title; however, any award entered under the provisions of this
1502 title on behalf of members of the National Guard or their dependents, or registered members on duty or in
1503 training of the United States Civil Defense Corps of the Commonwealth or their dependents, shall be
1504 subject to credit for benefits paid them under existing or future federal law on account of injury or
1505 occupational disease covered by the provisions of this title.

1506 3. Whenever volunteer firefighters, volunteer emergency medical services personnel, volunteer
1507 law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, members of
1508 volunteer search and rescue organizations, volunteer members of community emergency response teams,
1509 and volunteer members of medical reserve corps are deemed employees under this title, their average
1510 weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for
1511 injured workers or their dependents. For the purposes of workers' compensation insurance premium
1512 calculations, the monthly payroll for each volunteer firefighter or volunteer who is an individual who
1513 meets the definition of "emergency medical services personnel" in § 32.1-111.1 shall be deemed to be
1514 \$300.

1515 4. The average weekly wage of persons, other than those covered in subdivision 3 of this definition,
1516 who respond to a hazardous materials incident at the request of the Department of Emergency
1517 Management shall be based upon the earnings of such persons from their primary employers.

1518 "Award" means the grant or denial of benefits or other relief under this title or any rule adopted
1519 pursuant thereto.

1520 "Change in condition" means a change in physical condition of the employee as well as any change
1521 in the conditions under which compensation was awarded, suspended, or terminated which would affect
1522 the right to, amount of, or duration of compensation.

1523 "Client company" means any person that enters into an agreement for professional employer
1524 services with a professional employer organization.

1525 "Coemployee" means an employee performing services pursuant to an agreement for professional
1526 employer services between a client company and a professional employer organization.

1527 "Commission" means the Virginia Workers' Compensation Commission as well as its former
1528 designation as the Virginia Industrial Commission.

1529 "Employee" means:

1530 1. a. Every person, including ~~aliens~~ noncitizens and minors, in the service of another under any
1531 contract of hire or apprenticeship, written or implied, whether lawfully or unlawfully employed, except
1532 (i) one whose employment is not in the usual course of the trade, business, occupation or profession of the
1533 employer or (ii) as otherwise provided in subdivision 2 of this definition.

1534 b. Any apprentice, trainee, or retrainee who is regularly employed while receiving training or
1535 instruction outside of regular working hours and off the job, so long as the training or instruction is related
1536 to his employment and is authorized by his employer.

1537 c. Members of the Virginia National Guard, whether on duty in a paid or unpaid status or when
1538 performing voluntary service to their unit in a nonduty status at the request of their commander.

1539 Income benefits for members of the National Guard shall be terminated when they are able to
1540 return to their customary civilian employment or self-employment. If they are neither employed nor self-
1541 employed, those benefits shall terminate when they are able to return to their military duties. If a member
1542 of the National Guard who is fit to return to his customary civilian employment or self-employment
1543 remains unable to perform his military duties and thereby suffers loss of military pay which he would

1544 otherwise have earned, he shall be entitled to one day of income benefits for each unit training assembly
1545 or day of paid training which he is unable to attend.

1546 d. Members of the Virginia Defense Force.

1547 e. Registered members of the United States Civil Defense Corps of the Commonwealth, whether
1548 on duty or in training.

1549 f. Except as provided in subdivision 2 of this definition, all officers and employees of the
1550 Commonwealth, including (i) forest wardens; (ii) judges, clerks, deputy clerks and employees of juvenile
1551 and domestic relations district courts and general district courts; and (iii) secretaries and administrative
1552 assistants for officers and members of the General Assembly employed pursuant to § 30-19.4 and
1553 compensated as provided in the general appropriation act, who shall be deemed employees of the
1554 Commonwealth.

1555 g. Except as provided in subdivision 2 of this definition, all officers and employees of a municipal
1556 corporation or political subdivision of the Commonwealth.

1557 h. Except as provided in subdivision 2 of this definition, (i) every executive officer, including
1558 president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the
1559 charter and bylaws of a corporation, municipal or otherwise and (ii) every manager of a limited liability
1560 company elected or appointed in accordance with the articles of organization or operating agreement of
1561 the limited liability company.

1562 i. Policemen and firefighters, sheriffs and their deputies, town sergeants and their deputies, county
1563 and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, clerks
1564 of circuit courts and their deputies, officers and employees, and electoral board members appointed in
1565 accordance with § 24.2-106, who shall be deemed employees of the respective cities, counties and towns
1566 in which their services are employed and by whom their salaries are paid or in which their compensation
1567 is earnable. However, notwithstanding the foregoing provision of this subdivision, such individuals who
1568 would otherwise be deemed to be employees of the city, county, or town in which their services are
1569 employed and by whom their salaries are paid or in which their compensation is earnable shall be deemed
1570 to be employees of the Commonwealth while rendering aid outside of the Commonwealth pursuant to a

1571 request, approved by the Commonwealth, under the Emergency Management Assistance Compact enacted
1572 pursuant to § 44-146.28:1.

1573 j. Members of the governing body of any county, city, or town in the Commonwealth, whenever
1574 coverage under this title is extended to such members by resolution or ordinance duly adopted.

1575 k. Volunteers, officers and employees of any commission or board of any authority created or
1576 controlled by a local governing body, or any local agency or public service corporation owned, operated
1577 or controlled by such local governing body, whenever coverage under this title is authorized by resolution
1578 or ordinance duly adopted by the governing board of any county, city, town, or any political subdivision
1579 thereof.

1580 l. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer
1581 emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve
1582 police, auxiliary or reserve deputy sheriffs, members of volunteer search and rescue organizations,
1583 volunteer members of regional hazardous materials emergency response teams, volunteer members of
1584 community emergency response teams, and volunteer members of medical reserve corps, who shall be
1585 deemed employees of (i) the political subdivision or public institution of higher education in which the
1586 principal office of such volunteer fire company, volunteer emergency medical services agency personnel,
1587 volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff
1588 force, volunteer search and rescue organization, regional hazardous materials emergency response team,
1589 community emergency response team, or medical reserve corps is located if the governing body of such
1590 political subdivision or public institution of higher education has adopted a resolution acknowledging
1591 those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or
1592 volunteer emergency medical services personnel, the fire companies or emergency medical services
1593 agencies for which volunteer services are provided whenever such companies or squads elect to be
1594 included as an employer under this title.

1595 m. (1) Volunteer firefighters, volunteer emergency medical services agency personnel, volunteer
1596 law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, members of
1597 volunteer search and rescue organizations and any other persons who respond to an incident upon request

1598 of the Department of Emergency Management, who shall be deemed employees of the Department of
1599 Emergency Management for the purposes of this title.

1600 (2) Volunteer firefighters when engaged in firefighting activities under the supervision and control
1601 of the Department of Forestry, who shall be deemed employees of the Department of Forestry for the
1602 purposes of this title.

1603 n. Any sole proprietor, shareholder of a stock corporation having only one shareholder, member
1604 of a limited liability company having only one member, or all partners of a business electing to be included
1605 as an employee under the workers' compensation coverage of such business if the insurer is notified of
1606 this election. Any sole proprietor, shareholder or member or the partners shall, upon such election, be
1607 entitled to employee benefits and be subject to employee responsibilities prescribed in this title.

1608 When any partner or sole shareholder, member or proprietor is entitled to receive coverage under
1609 this title, such person shall be subject to all provisions of this title as if he were an employee; however,
1610 the notices required under §§ 65.2-405 and 65.2-600 shall be given to the insurance carrier, and the panel
1611 of physicians required under § 65.2-603 shall be selected by the insurance carrier.

1612 o. The independent contractor of any employer subject to this title at the election of such employer
1613 provided (i) the independent contractor agrees to such inclusion and (ii) unless the employer is self-
1614 insured, the employer's insurer agrees in writing to such inclusion. All or part of the cost of the insurance
1615 coverage of the independent contractor may be borne by the independent contractor.

1616 When any independent contractor is entitled to receive coverage under this section, such person
1617 shall be subject to all provisions of this title as if he were an employee, provided that the notices required
1618 under §§ 65.2-405 and 65.2-600 are given either to the employer or its insurance carrier.

1619 However, nothing in this title shall be construed to make the employees of any independent
1620 contractor the employees of the person or corporation employing or contracting with such independent
1621 contractor.

1622 p. The legal representative, dependents and any other persons to whom compensation may be
1623 payable when any person covered as an employee under this title shall be deceased.

1624 q. Jail officers and jail superintendents employed by regional jails or jail farm boards or authorities,
1625 whether created pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or Article 5 (§ 53.1-105 et seq.) of Chapter 3
1626 of Title 53.1, or an act of assembly.

1627 r. AmeriCorps members who receive stipends in return for volunteering in local, state and
1628 nonprofit agencies in the Commonwealth, who shall be deemed employees of the Commonwealth for the
1629 purposes of this title.

1630 s. Food Stamp recipients participating in the work experience component of the Food Stamp
1631 Employment and Training Program, who shall be deemed employees of the Commonwealth for the
1632 purposes of this title.

1633 t. Temporary Assistance for Needy Families recipients not eligible for Medicaid participating in
1634 the work experience component of the Virginia Initiative for Education and Work, who shall be deemed
1635 employees of the Commonwealth for the purposes of this title.

1636 2. "Employee" shall not mean:

1637 a. Officers and employees of the Commonwealth who are elected by the General Assembly, or
1638 appointed by the Governor, either with or without the confirmation of the Senate. This exception shall not
1639 apply to any "state employee" as defined in § 51.1-124.3 nor to Supreme Court Justices, judges of the
1640 Court of Appeals, judges of the circuit or district courts, members of the Workers' Compensation
1641 Commission and the State Corporation Commission, or the Superintendent of State Police.

1642 b. Officers and employees of municipal corporations and political subdivisions of the
1643 Commonwealth who are elected by the people or by the governing bodies, and who act in purely
1644 administrative capacities and are to serve for a definite term of office.

1645 c. Any person who is a licensed real estate salesperson, or a licensed real estate broker associated
1646 with a real estate broker, if (i) substantially all of the salesperson's or associated broker's remuneration is
1647 derived from real estate commissions, (ii) the services of the salesperson or associated broker are
1648 performed under a written contract specifying that the salesperson is an independent contractor, and (iii)
1649 such contract includes a provision that the salesperson or associated broker will not be treated as an
1650 employee for federal income tax purposes.

1651 d. Any taxicab or executive sedan driver, provided the Commission is furnished evidence that such
1652 individual is excluded from taxation by the Federal Unemployment Tax Act.

1653 e. Casual employees.

1654 f. Domestic servants.

1655 g. Farm and horticultural laborers, unless the employer regularly has in service more than three
1656 full-time employees.

1657 h. Employees of any person, firm or private corporation, including any public service corporation,
1658 that has regularly in service less than three employees in the same business within this Commonwealth,
1659 unless such employees and their employers voluntarily elect to be bound by this title. However, this
1660 exemption shall not apply to the operators of underground coal mines or their employees. An executive
1661 officer who is not paid salary or wages on a regular basis at an agreed upon amount and who rejects
1662 coverage under this title pursuant to § 65.2-300 shall not be included as an employee for purposes of this
1663 subdivision.

1664 i. Employees of any common carrier by railroad engaging in commerce between any of the several
1665 states or territories or between the District of Columbia and any of the states or territories and any foreign
1666 nation or nations, and any person suffering injury or death while he is employed by such carrier in such
1667 commerce. This title shall not be construed to lessen the liability of any such common carrier or to
1668 diminish or take away in any respect any right that any person so employed, or the personal representative,
1669 kindred or relation, or dependent of such person, may have under the act of Congress relating to the
1670 liability of common carriers by railroad to their employees in certain cases, approved April 22, 1908, or
1671 under §§ 8.01-57 through 8.01-62 or § 56-441.

1672 j. Employees of common carriers by railroad who are engaged in intrastate trade or commerce.
1673 However, this title shall not be construed to lessen the liability of such common carriers or take away or
1674 diminish any right that any employee or, in case of his death, the personal representative of such employee
1675 of such common carrier may have under §§ 8.01-57 through 8.01-61 or § 56-441.

1676 k. Except as provided in subdivision 1 of this definition, a member of a volunteer fire department
1677 or volunteer emergency medical services agency when engaged in activities related principally to

1678 participation as an individual who meets the definition of "emergency medical services personnel" in §
1679 32.1-111.1 or a member of such fire department whether or not the volunteer continues to receive
1680 compensation from his employer for time away from the job.

1681 l. Except as otherwise provided in this title, noncompensated employees and noncompensated
1682 directors of (i) corporations exempt from taxation pursuant to § 501(c)(3) of Title 26 of the United States
1683 Code (Internal Revenue Code of 1954) or (ii) property owners' associations as defined in § 55.1-1800.

1684 m. Any person performing services as a sports official for an entity sponsoring an interscholastic
1685 or intercollegiate sports event or any person performing services as a sports official for a public entity or
1686 a private, nonprofit organization which sponsors an amateur sports event. For the purposes of this
1687 subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper or other person
1688 who is a neutral participant in a sports event. This shall not include any person, otherwise employed by
1689 an organization or entity sponsoring a sports event, who performs services as a sports official as part of
1690 his regular employment.

1691 n. Any person who suffers an injury on or after July 1, 2012, for which there is jurisdiction under
1692 either the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et seq., and its extensions,
1693 or the Merchant Marine Act of 1920, 46 U.S.C. § 30104 et seq. However, this title shall not be construed
1694 to eliminate or diminish any right that any person or, in the case of the person's death, his personal
1695 representative, may have under either the Longshore and Harbor Workers' Compensation Act, 33 U.S.C.
1696 § 901 et seq., and its extensions, or the Merchant Marine Act of 1920, 46 U.S.C. § 30104 et seq.

1697 o. An owner-operator of a motor vehicle that is leased with or to a common or contract carrier in
1698 the trucking industry if (i) the owner-operator performs services for the carrier pursuant to a contract that
1699 provides that the owner-operator is an independent contractor and shall not be treated as an employee for
1700 purposes of the Federal Insurance Contributions Act, 26 U.S.C. § 3101 et seq., Social Security Act of
1701 1935, P.L. 74-271, federal unemployment tax laws, and federal income tax laws and (ii) each of the
1702 following factors is present:

- 1703 (1) The owner-operator is responsible for the maintenance of the vehicle;
- 1704 (2) The owner-operator bears the principal burden of the vehicle's operating costs;

1705 (3) The owner-operator is the driver;

1706 (4) The owner-operator's compensation is based on factors related to the work performed and not
1707 on the basis of hours or time expended; and

1708 (5) The owner-operator determines the method and means of performing the service.

1709 "Employer" includes (i) any person, the Commonwealth or any political subdivision thereof and
1710 any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal
1711 representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire
1712 company or volunteer emergency medical services agency electing to be included and maintaining
1713 coverage as an employer under this title. If the employer is insured, it includes his insurer so far as
1714 applicable.

1715 "Executive officer" means (i) the president, vice-president, secretary, treasurer or other officer
1716 elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers
1717 elected or appointed in accordance with the articles of organization or operating agreement of a limited
1718 liability company. However, "executive officer" does not include (a) noncompensated officers of
1719 corporations exempt from taxation pursuant to § 501(c)(3) of Title 26 of the United States Code (Internal
1720 Revenue Code of 1954) or (b) noncompensated officers of a property owners' association as such term is
1721 defined in § 55.1-1800.

1722 "Filed" means hand delivered to the Commission's office in Richmond or any regional office
1723 maintained by the Commission; sent by means of electronic transmission approved by the Commission;
1724 sent by facsimile transmission; or posted at any post office of the United States Postal Service by certified
1725 or registered mail. Filing by first-class mail, electronic transmission, or facsimile transmission shall be
1726 deemed completed only when the document or other material transmitted reaches the Commission or its
1727 designated agent.

1728 "Injury" means only injury by accident arising out of and in the course of the employment or
1729 occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) and does not include a disease in any
1730 form, except when it results naturally and unavoidably from either of the foregoing causes. Such term
1731 shall not include any injury, disease or condition resulting from an employee's voluntary:

1732 1. Participation in employer-sponsored off-duty recreational activities which are not part of the
1733 employee's duties; or

1734 2. Use of a motor vehicle that was provided to the employee by a motor vehicle dealer as defined
1735 by § 46.2-1500 and bears a dealer's license plate as defined by § 46.2-1550 for (i) commuting to or from
1736 work or (ii) any other nonwork activity.

1737 Such term shall include any injury, disease or condition:

1738 1. Arising out of and in the course of the employment of (a) an employee of a hospital as defined
1739 in § 32.1-123; (b) an employee of a health care provider as defined in § 8.01-581.1; (c) an employee of
1740 the Department of Health or a local department of health; (d) a member of a search and rescue
1741 organization; or (e) any person described in clauses (i) through (iv), (vi), and (ix) of subsection A of §
1742 65.2-402.1 otherwise subject to the provisions of this title; and

1743 2. Resulting from (a) the administration of vaccinia (smallpox) vaccine, Cidofivir and derivatives
1744 thereof, or Vaccinia Immune Globulin as part of federally initiated smallpox countermeasures, or (b)
1745 transmission of vaccinia in the course of employment from an employee participating in such
1746 countermeasures to a coemployee of the same employer.

1747 "Professional employer organization" means any person that enters into a written agreement with
1748 a client company to provide professional employer services.

1749 "Professional employer services" means services provided to a client company pursuant to a
1750 written agreement with a professional employer organization whereby the professional employer
1751 organization initially employs all or a majority of a client company's workforce and assumes
1752 responsibilities as an employer for all coemployees that are assigned, allocated, or shared by the agreement
1753 between the professional employer organization and the client company.

1754 "Staffing service" means any person, other than a professional employer organization, that hires
1755 its own employees and assigns them to a client to support or supplement the client's workforce. It includes
1756 temporary staffing services that supply employees to clients in special work situations such as employee
1757 absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

1758 **§ 66-3.2. Additional duties of the Director.**

